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August/September 1998
Number 85

# FIRST THINGS

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Gilbert Meilaender

## THAT EMINENT TRIBUNAL
Francis Canavan

## DISCOVERING THE TALMUD
Eric M. Chevlen

## LIFE, LAW & SUICIDE: GETTING THE ARGUMENTS STRAIGHT

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Publisher: *Institute on Religion and Public Life*
Publishing Service: *Publishing Management Associates*



FIRST THINGS: A Monthly Journal of Religion and Public Life (ISSN #1047-5141) is published monthly (except for combined issues June/July and August/September) for $29 per year by the Institute on Religion and Public Life, 156 Fifth Avenue, Suite 400, New York, NY 10010. Periodicals postage paid at New York, NY and additional mailing office. POSTMASTER: send address changes to FIRST THINGS: A Monthly Journal of Religion and Public Life, P.O. Box 3000, Dept. FT, Denville, NJ 07834. **Editorial Offices:** The Institute on Religion and Public Life, 156 Fifth Avenue, Suite 400, New York, NY 10010. **Editorial Phone:** (212) 627-1985. **Advertising Offices:** 129 Phelps Avenue, Suite 312, Rockford, IL 61108. **Advertising Phone:** (815) 398-8569. **Subscription Department:** P.O. Box 3000, Dept. FT, Denville, NJ 07834. 1-800-783-4903. Unsolicited material cannot be returned unless accompanied by sufficient return postage. Newsstand distribution by Eastern News Distributors, Inc., One Media Way, 12406 Rt. 250, Milan, OH 44846.


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# FIRST THINGS

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# Correspondence

## On the Death Penalty

I read James Nuechterlein's essay "An Unwonted Uncertainty" (April) with appreciation of his intellectual uncertainty. As one who has studied and served in the fields of medicine, the military, and law enforcement, I would only carry his fine thoughts a little further.

In my book *Death in the Balance: The Debate over Capital Punishment* (1989), I point out that the death penalty is closely related to two other social issues that have received widespread attention in the past three decades: abortion and gun control. All three issues raise fundamental questions about life and death, especially the sanctity of life.

Relatively little consistency is to be found among the partisans on these issues. Many who support capital punishment oppose abortion and gun control. On the other hand, opponents of the death penalty often favor abortion.

If the sanctity of life were the only concern, left and right sides would have to unite in opposing the death penalty and abortion and in backing strict gun control. But such a position would receive little support across the political spectrum. Instead, the opposing sides stand by their long-stated attitudes, one group accusing the other of sentimental idealism and dreamlike compassion, the other charging its opposition with lack of heart and a tough realism that has little room for compassion.

Donald D. Hook
Milton, DE

James Nuechterlein's tentative note was a rare, and to that extent welcome, word in First Things from a proponent of the death penalty. But he needlessly cedes the moral high ground by his statement that, should we who support the death penalty be wrong, "the judgment for error on this life or death issue will weigh on us more heavily than it will on those who have erred in the gentler direction." It would seem to follow that opponents of the death penalty have little reason to reexamine the evidence against their position. At the worst, they will have erred on the side of gentleness, and who needs to worry about that? Whereas we supporters of the death penalty must remember "every moment" that we "might be quite terribly wrong."

But the very arguments Mr. Nuechterlein makes earlier in his piece would, if consistently followed, allow him to repudiate this uneven placement of the burden of conscience. Mr. Nuechterlein states that the death penalty is an "indication of reverence" for innocent human life. Yet understood rightly, such an indication of reverence is not merely symbolic and dispensable, and those who want us to dispense with it are not the true advocates of gentleness. Consider the atrocities committed by many on death row—the tortures, sometimes tape-recorded by the torturers, the brutal murderers of innocent persons. If the state does not execute these criminals, they must either be freed or maintained for the rest of their days at the expense of those whose lives they disdain and whose fellow-citizens (not to mention children or parents) they have tortured and slaughtered. Would such a policy really represent "the gentler direction"? In framing the issue in such terms, we have once again allowed the victims, and the state's duty to execute justice for their horrific deaths, to slip silently out of the picture.

Those who have, like Mr. Nuechterlein, seen the point of the death penalty must never forget that misguided "gentleness" to human predators is inhumane to the innocent and an abrogation of the government's responsibility to "bear the sword" for the "punishment of evildoers." The death penalty is not just



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an option the ruler may decide to exercise if he feels inclined to be harsh; it is an obligation of government in a just society. Such life or death considerations should also give food for conscientious thought to the opponents of the death penalty. For if we are right, they will have contributed to the undermining of civilized rule and the objective failure to value innocent life aright.

Lydia McGrew
Kalamazoo,MI

It seems to me that in his piece on capital punishment James Nuechterlein has left out the best arguments of all in opposition to that practice, those of Jesus Christ. How about Matthew 5:44, "But I say to you, love your enemies and pray for those who persecute you"; Matthew 6:12, "And forgive us our debts, as we also have forgiven our debtors"; and Matthew 7:2, "For with the judgment you make you will be judged, and the measure you give will be the measure you get"? One could cite many other verses from both the Old and New Testaments, but it should suffice to say that, as Christians, we are bound to love all our neighbors, all the time. There are only two justifications for killing, self-defense and to prevent a murder. All other killing is, for a Christian, hypocrisy.

Raymond H. Fischer
Portland, OR

With respect to Karla Faye Tucker and the relationship of her case to the general subject of capital punishment: Had her plea of "conversion" been accepted, what a door would have been opened! Such a religious revival would have animated the nation's prisons and especially the death rows as would have put the Great Awakening to shame. A clamor not only for Bibles but also for specific conversion programs and teachers thereof would have resounded from every death-celled monster in the nation. And in response, the right to become a born-again Christian (or something) and thereby ineligible for capital as well as any other punishment would have been found by many a liberal judge to be a vital part of the Bill of Rights, and the furnishing of every convicted criminal with a specialist in conversion would soon have become as essential a requirement of due process of law as the right to legal counsel.

Texas is to be congratulated for having refused to accept this novel plea, and for having by inference endorsed Ambrose Bierce's definition of *penitent*:

"*Penitent*, adj. Undergoing or awaiting punishment."

Park Chamberlain
Woodside, CA

James Nuechterlein's poignant description of his transition from a fervent anti- to a hesitant pro-capital punishment position exactly captures the ambivalence which thoughtful Christians feel on this issue. I agree with Mr. Nuechterlein that most secular arguments against capital punishment are not finally persuasive. He does not mention, however, the one argument that does seem to me decisive: Christians believe that God has a plan of redemption for each human soul. For man to willfully cut short a human life is to risk preempting God's plan and timetable. Whether God's plan or timetable can be deflected is irrelevant; the attempt to do so is blasphemous.

Ian A. Hunter
University of Western Ontario
London, Ontario

James Nuechterlein has rationalized his way into deciding it is okay for the state to "whomp" people into eternity under certain circumstances. (Why is it people who are anti-abortion so often can't seem to get that same logic to work for people after they've been born?) I will join him in supporting capital punishment—and in some cases a part of me wants to so much—when . . .

1. When the line between the guy who is executed and the guy who isn't is much more closely delineated. We frequently let people live who are much more culpable than the


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ones we kill. Mr. Nuechterlein talks about "just." There is nothing remotely "just" about capital punishment as practiced anywhere in the world today.

2. When the barbarity of keeping someone locked up for decades in conditions that would have the Animal Rights people frothing at the mouth were the inmate a rabbit is ended.

3. When there is *zero* possibility of an innocent person being executed.

4. When someone convinces me that Christ's orders to his people about how they are to behave don't apply when voting for or against capital punishment. Society may not be under Christ's orders, but *we* are, and I therefore as a Christian must oppose capital punishment no matter how much I want the "bad guy" to get it. Some things, like killing and divorce and wars, are always wrong, even when they are the only sane and viable alternatives left.

5. And thus, finally, I will join him in supporting capital punishment when that is the only sane and viable alternative left for dealing with people who do terrible and cruel things. We have many other alternatives at hand, but the majority keep voting to kill, while stretching the whole affair out and executing medically so we appear "civilized."

Arthur E. Greer
Houston, TX

**James Nuechterlein replies:**

I thank Donald D. Hook, Lydia McGrew, and Park Chamberlain for their useful comments. Raymond H. Fischer quotes from the Gospel of Matthew to argue that followers of Christ must oppose the death penalty. But if Christians are to insist on that kind of literal translation of Jesus' words into public policy prescriptions, then they must—given Mr. Fischer's examples—oppose *all* forms of criminal punishment. To Ian A. Hunter I would simply suggest that, assuming divine foreknowledge, capital punishment is not at all inconsistent with the belief that "God has a plan of redemption for each human soul." As for Arthur E. Greer's rant, I can only say that it's the kind of argument that brings welcome ease to my occasional doubts about the death penalty.

## Karol Wojtyla and Vatican II

I greatly appreciated Thomas Guarino's substantial review of Rocco Buttiglione's *Karol Wojtyla: The Thought of the Man Who Became Pope John Paul II* (April). There is, however, another dimension of Buttiglione's book which needs attending to: i.e., Vatican II as a *philosophical* construct.

Buttiglione writes: "To interpret the Council is par excellence to do the work of Christian *philosophy*. But that does not imply an effort only of *aggiornamento* of Christian culture but much more progress in the general self-understanding of man, a step forward in the *philosophical consciousness of all humanity*" (emphasis added). In more than one place Buttiglione suggests that *The Acting Person*, written in 1969, derived its basic methodology and insights from Wojtyla's participation in Vatican II (1962-1965). Therefore, the serious prospect arises that acquaintance with the philosophical handling of *The Acting Person* lends access to the philosophical substructure and meanings of the Council's reflections.

It is generally appreciated today that *The Acting Person* is a fusion of Thomism and phenomenology. Even though Wojtyla was trained in the conceptualist Thomism of Garrigou-Lagrange, Buttiglione points out that he also draws on the more modern interpretation of Thomas' thought, as in the "existentialist Thomism" of Gilson, Fabro, and De Finance. Much the same innovative flexibility is apparent in Wojtyla's use of phenomenology deriving from Husserl, Scheler, and Sartre. In this essentially anthropological style of reflection, the Thomistic ontology, embracing the order of things in Truth and the order of things in Being, provides the metaphysical ground for the dynamic, descriptive phenomenology centered on the field of consciousness of the acting person. The methodology here involves a complementary dialectic of deduction and induction. Wojtyla's reflections, accordingly, provide the key to Vatican II's own reflections on the corporate consciousness of the Church, as the People of God, where the Person of Christ functions as the "paradigmatic person" of all its authentic ecclesial actions.

It was my research into Vatican II, not any interest in Wojtyla's work, that first alerted me to the correlated use of Thomism and phenomenology at the Council. My book *Vatican II and Phenomenology* (1985) interpreted the Council's methodology as a fusion of Aquinas and Husserl. As I became better acquainted with Wojtyla's thought, I managed to correlate my own insights with his Scheler-inspired focus on values and their emotive dimensions. This was a major thesis of my 1991 book, *Vatican II, Theophany, and the Phenomenon of Man*. More pertinently, however, the Council manifested itself to me as a great sacramental epiphany of the Cosmic Christ projecting a vision of humanity transfigured in the ecclesial consciousness by the *lumen gloriae*. This quasi-incarnational presentation of God's salvific plan and mankind's eschatological destiny is the "cosmotheandric" ground of the Church's contemporary resolve to build a "new civilization of love." This is her practical task for the third millennium.

Fr. John F. Kobler, CP
Immaculate Conception Monastery
Chicago, IL

## Grisez's Influence

Although Richard John Neuhaus rightly observes (While We're At It, April) that Germain Grisez is one of the most impressive moral thinkers working today, he holds back from describing him as among the most "influential" in light of resistance to Grisez's thought by non-Catholics and dissenting Catholic theologians.

Father Neuhaus needn't have held back. Grisez's influence has been profound. Informed readers of *Veritatis Splendor* have taken note of the

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respects in which Grisez's path-breaking work on the theory of human action shaped key aspects of that encyclical. Moreover, Grisez has plainly had a powerful impact on the thinking of some of the most brilliant and, by anybody's account, influential younger Catholic theologians, philosophers, and legal scholars—start the list with Oxford's John Finnis, Princeton's Robert George, and Notre Dame's Gerard Bradley.

Indeed, Grisez's influence stretches beyond Catholic and even Christian circles. David Novak, arguably the most influential Jewish ethicist in the English-speaking world, completed his doctorate at Georgetown under Grisez's supervision. Although Novak obviously does not share Grisez's Catholic faith or important aspects of his theological program, it is easy to see Grisez's influence in the philosophical sophistication and analytical rigor of Novak's work.

David Russo
Charleston, WV

## The Population Picture

In While We're At It (February), Richard John Neuhaus accuses Father Robert Drinan of failing to understand the world population picture. Father Neuhaus' quotation from Bishop James McHugh even accuses him of "hiding behind a misrepresentation of the demographic data."

Much more probably, those who assume that the world population explosion will surely soon be over are the seers who fail to understand and, therefore, misrepresent the data. Projections of continued substantial fertility decline in the developing world have credibility *only if* larger proportions of couples in high-fertility nations gain effective access to family planning services. If they are denied that access, population could easily keep growing until soaring death rates cast their cruel veto.

Family planning programs should offer a variety of voluntary contraceptive options, including natural family planning techniques for couples who object to artificial contraception on religious or other personal grounds. Increased family planning aid from the U.S. and other rich nations would mean far fewer abortions and far fewer maternal and child deaths in the world. Such aid deserves the support of Catholics, other Christians, and all persons of good will.

Fr. Neuhaus also accused Fr. Drinan of "puffing a book filled with apocalyptic warnings." To allow your readers to judge the fairness of that accusation, please let me tell them: The book Fr. Drinan favorably reviewed in *National Catholic Reporter* and Bishop McHugh later rebuked is *Ending the Explosion: Population Policies and Ethics for a Humane Future* (1996).

As the beleaguered author of that book, perhaps I might, after due penitence, be forgiven for preferring Fr. Drinan's praise to Fr. Neuhaus' and Bishop McHugh's rebukes. Even if the rebukes of me are partly justified, both critics err in suggesting that *Ending the Explosion* "promotes population control by any means so long as they are respectful of human freedom." While indeed urging that all means must respect human freedom, the book also insists that other aspects of human dignity must be honored as well. Contrary to what Bishop McHugh possibly surmised, neither the book nor its author promotes abortion or "sterilization of people with disabilities."

I do respectfully disagree with current papal teaching against artificial contraception. Even so, the policies advised in *Ending the Explosion* do not to me seem far afield from some words said by His Holiness Pope John Paul II: "It is the responsibility of the public authorities, within the limits of their legitimate competence, to issue directives which reconcile the containment of births and respect for the free and personal assumption of responsibility by individuals."

William G. Hollingsworth
College of Law
University of Tulsa
Tulsa, OK

**RJN replies:**

The preponderance of scientific evidence, I believe, does not support the assumption that there is a "world population explosion," and thoroughly discredits Malthusian claims about "soaring death rates [casting] their cruel veto." Whatever his personal intentions, and whatever he might surmise about Bishop McHugh's surmisings, Professor Hollingsworth's argument supports the U.S. devoting hundreds of millions of dollars to population control policies that include coercive measures in flagrant contradiction of Catholic teaching and human dignity. For a thorough examination of the science and mythology of "population explosion," see Nicholas Eberhardt's "Population Policy: Ideology as Science" (FT, January 1994). For a discussion of current U.S. population policy and alternatives to it, see the March 1998 issue of *Life Insight* (NCCB Pro-Life Secretariat, 3211 Fourth St., N.E., Washington, D.C. 20017).

## Communists, Anarchists & the Spanish Civil War

In "Apologies on the Cheap" (Public Square, April), Richard John Neuhaus lists some of the good things General Franco and the Nationalists did. Citing Paul Claudel and Paul Johnson, he contrasts these with a very bad thing he says the Stalinists did during the Spanish Civil War: killing twelve thousand clergy and religious and destroying many churches. I'm writing to clear up this misunderstanding. The Communists did not commit these particular murders; rather, they avenged them.

In *The Spanish Civil War*, Burnett Bolloten notes that anarchism was especially strong in Catalonia and several other parts of Spain. Bakunin, the apostle of anarchism, preached militant atheism because he didn't want to concede that God's intelligence and will were far superior to his own. It was the Anarchists and a few revolutionary Marxists not loyal to Stalin who desecrated churches and killed people precisely because of their religious witness.

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The names, dates, and places of martyrdom are known for 6,832 religious personnel.

The Communists ended up fighting another civil war in Catalonia against the Anarchists and their allies, just like they did in Russia. This war also ended with the Communists soundly defeating the Anarchists and promptly filling graveyards and prisons with their enemies on the left. Is it irony or rough justice that some of those who murdered defenseless religious people were themselves firmly dealt with by triumphant Stalinists?

William L. Simonich
Grayslake, IL

## Balasuriya and Heresy

In While We're At It (April), Richard John Neuhaus comments on the reconciliation of Sri Lankan theologian Tissa Balasuriya with the Roman Catholic Church. While Father Neuhaus acknowledges that Balasuriya's apology was "something less than a clear admission of error," he urges those concerned about that to "stifle their suspicion" because "the important thing is that a prodigal has returned" and "salvation is forever." (Presumably the latter refers to Balasuriya's destiny now that he has been reconciled with his church.)

There is a problem here. Balasuriya was excommunicated "for espousing heresy in his writings," and, since his apology was "something less than a clear admission of error," it seems that he continues to hold to his heretical views, even while regretting the harm his views have caused.

Now, the Bible makes it clear that one's salvation is fundamentally dependent upon what he believes (see, for example, John 3:16-18, Romans 10:8-11, Hebrews 11:6); thus, a heretic, who denies one or more salvific doctrines, cannot be saved. Presumably, the Roman Catholic Church admits this, else why would Balasuriya have incurred excommunication in the first place? Yet Fr. Neuhaus suggests that since Balasuriya has been reconciled with his church, he will be saved, even though he may continue to hold to heretical beliefs.

I have long suspected that the Roman Catholic Church doesn't *really* care what one believes, as long as he is a member of the Church and does not challenge its authority. (It seems that historically the Church has not usually excommunicated even the most off-the-wall heretics until and unless they began to pose a threat to the Church's authority.) Fr. Neuhaus' admonition regarding Balasuriya goes a long way toward confirming this suspicion.

John Tors
Toronto, Ontario

**RJN replies:**

I am not privy to the internal conversations between Father Balasuriya and Rome, as I assume Mr. Tors is not. The theologian's clarification satisfied Rome that he is not teaching heresy. My simple suggestion was that we should not presume to second-guess those who have the competence to make the decision they made. Permit me to suggest that Mr. Tors' suspicion is more in the nature of a weary anti-Catholic slander. In any event, in Catholic teaching excommunication is the judgment of the Church that someone has removed himself from communion, which is always subject to the ultimate judgment of God, who alone knows the state of a person's soul.

## Vietnam Revisited

An intriguing phrase about Vietnam in the brief notice of my book *The Irony of Virtue: Ethics and American Power* (April) prompts some words of reflection and, I hope, healing.

The reference to my "stormy path to Niebuhrian 'realism' that he staunchly defended during the Vietnam years" is accurate, but to some it may suggest that I uncritically supported America's tragic war in Southeast Asia. That was not the case.

At that time, most Americans, and certainly our government, saw the contest between communism and the West as a zero-sum game. The reigning containment doctrine that worked in Europe was extended to Asia. It succeeded in the Korean War, widely seen as the precedent for Vietnam. In Southeast Asia our motives were honorable, but our strategic appraisal was flawed.

In 1968, I was drawn into the Vietnam debate at the Democratic Party Convention in Chicago. I wrote the foreign policy and defense portions of the platform, including the Vietnam plank that was adopted without amendment. Ted Sorensen wrote the minority plank.

Even before Chicago erupted, it was clear to President Lyndon Johnson that the central moral and political question was how to extricate ourselves from the quagmire with honor. Both "doves" and "hawks" wanted to get out, but they differed radically on means. In my view, the former wanted to cut and run regardless of the consequences while the latter wanted to salvage what freedom and hope we could.

After his election in 1968, Richard Nixon made a significant but largely unacknowledged clarification of the Vietnam dilemma. He modified prevailing zero-sum Cold War assumptions by developing a more realistic strategic assessment. Though Moscow and Beijing supported Hanoi's conquest of the South, President Nixon concluded that South Vietnam was not as vital to containing Communist expansion as was South Korea. He wanted to help defend Saigon, but felt the commitment of U.S. combat troops to a less-than-vital area was not a prudent use of American blood and treasure.

In the end, left-wing charges of imperial arrogance do not hold up. But widespread misperceptions, strategic miscalculations, and the less than candid disclosure of two Presidents exacted a toll on our national psyche and split our historical memory. To heal that split, erstwhile "hawks" and "doves" might well acknowledge their flaws.

Despite many failings, our involvement was not a total foreign policy disaster. Johnson's and

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Nixon's steadfastness assured allies in Europe and the Pacific that an America that would not abandon far-off Vietnam would hardly abandon them. Further, holding the line as long as we did bought time for Thailand, Indonesia, Malaysia, Singapore, and the Philippines to marshal their energies against Communist subversion, a point made forcefully by Singapore's Lee Kuan Yew.

But perhaps most significant, Vietnam helped us dispel what Denis Brogan once called "the illusion of American omnipotence"—and I would add, the illusion of American innocence.

Ernest W. Lefever
Chevy Chase, MD

## Catholics and Capital Punishment

In "A Position Not, or Not Yet, Mandated" (Public Square, April), Richard John Neuhaus states that "proponents of capital punishment . . . contend that the death penalty is necessary to protect society." "Before *Evangelium Vitae* (*EV*) their position was in the mainstream of magisterial Catholic doctrine, and it is certainly a position that is still permissible and within the bounds of the Church's teaching." This is misleading because it is incomplete. *EV*'s enhanced requirement that the death penalty can be used only "in cases of absolute necessity . . . when it would not be possible to defend society" refers not to some generalized protection of society by imposing retribution or by deterring potential offenders. Rather it refers only to the protection of society *from this convicted criminal.* "Among the signs of hope," *EV* stated, "there is evidence of a growing public opposition to the death penalty, even when such a penalty is seen as a kind of legitimate defense on the part of society. Modern society in fact has the means of effectively *suppressing crime by rendering criminals harmless without definitively denying the chance to reform*" (emphasis added).

The final text of the *Catechism of the Catholic Church* makes it explicitly clear that a Catholic can no longer argue for the death penalty from an undifferentiated need "to protect society": "[T]he traditional teaching of the Church does not exclude recourse to the death penalty, if this is the only possible way of effectively defending human lives *against the unjust aggressor.* If, however, nonlethal means are sufficient to defend and protect people's safety *from the aggressor,* authority will limit itself to such means. . . . Today . . . as a consequence of the possibilities which the state has for effectively preventing crime, *by rendering one who has committed an offense incapable of doing harm* . . . the cases in which the execution of the offender is an absolute necessity are very rare, if not practically nonexistent" (emphasis added).

A Catholic could still argue for the death penalty in limited cases, such as a prisoner serving a life sentence who murders a guard or another inmate. What sense would it make to give him another life sentence? Or would it be consistent with his dignity to wall him up permanently in a cell, with food and wastes passed through an aperture and with no direct contact ever with any other human being? Other cases could be argued, such as a condition of unrest in which the authorities would lack the means to keep a murderer securely imprisoned. The death penalty could be argued to be absolutely necessary in such cases, although even there it is debatable. But the criterion is protection of society *from this criminal.*

Before *EV*, I and others supported the use of the death penalty because it seemed to be necessary to restore the balance of justice and because it promoted respect for innocent life by inflicting a punishment for murder that was qualitatively different from the punishment for other crimes. But the Vicar of Christ has raised the discussion to a new level, making the old arguments obsolete. John Paul authoritatively challenges the claim of the state to assume the jurisdiction of God over life and death. After discussing the death penalty, *EV* states, "If such great care must be taken to respect every life, even that of criminals and unjust aggressors, the commandment, 'You shall not kill' has absolute value when it refers to the *innocent person*" (emphasis in original). If we owe such respect to the life of the guilty, so much the more, and absolutely so, with respect to the innocent. But this works the other way, too. If we would maintain the absolute inviolability of innocent life, we must begin by safeguarding even the life of the guilty from termination except according to the very restrictive law of God.

Charles E. Rice
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**RJN replies:**

While Professor Rice makes his point very effectively, I think I will, at least for the time being, stay with my earlier statement of the matter. While, as I wrote, we are witnessing a development of doctrine with respect to capital punishment, I am not as sure as Prof. Rice that the process of discernment and teaching has been authoritatively concluded in the way he suggests. This is a subject to which I and others will likely return in these pages.

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# David Klinghoffer and His Critics: An Exchange

As a member of the Editorial Board of First Things since its inception, I protest the publication of David Klinghoffer's "Anti-Semitism Without Anti-Semites" (April). The article is nothing less than evil—evil, not just misguided, because its intent is clearly to hurt, and without any greater, justifiable end to permit its angry words. The evil of this article comes across on three different levels: political, moral, and theological—especially theological.

On the political level, which means the context of one's rhetoric, the fact is that the overwhelming majority of First Things' readers and contributors are Christians. Nevertheless, First Things is deeply committed to Jewish-Christian dialogue in the most serious and far-reaching way. Because of that commitment, it has sought more Jewish readers and encourages Jewish thinkers to write for it. And, especially as concerns Jewish authors, the journal has provided a very significant medium for bringing Jewish voices into the public discussion of the major religious and political issues in our society. I would venture to say that many of the readers of First Things have received their first taste of intelligent, religiously committed Jewish thought on issues that concern them from the pages of this journal. And writing for this journal has enabled some contemporary Jewish thinkers to retrieve important aspects of Jewish social teaching in ways heretofore unavailable to us. The community of discourse that the Institute on Religion and Public Life and First Things have established has also elevated Jewish-Christian dialogue to unprecedented levels. That achievement must be guarded and nurtured. It cannot be taken for granted—ever.

Some might object that Mr. Klinghoffer's critique of widespread theological indifference among Jews today, even among many religiously observant Jews (my late revered teacher Abraham Joshua Heschel used to call them "religious behaviorists"), is rhetorically unwise in that it "washes dirty linen" of the Jews before the Gentiles. But that is not my objection. If Jews are part of the public square, they can hardly expect the luxury of that kind of sectarian anonymity. After all, First Things is not at all reticent to publish Christian critiques of other Christians—and rightly so. Were Mr. Klinghoffer's critique of too frequent invocation of the Holocaust by many Jews confined to the moral level, I would find much with which to agree. Talking about the Holocaust should take the form of addressing a great moral problem, not invoking it as a moral conclusion for unquestioned prejudices and political agendas (*petitio principii*). But Mr. Klinghoffer has done more than that. He has argued that the Holocaust is God's direct punishment for "our disobedience."

Now, despite official Church repudiations of the ancient charge against the Jews of "deicide," the truth is that there are still many Christians, including some (I hope not very many) First Things readers, who, even if they do not think the Jews guilty of deicide per se, still judge the Jews *sinful* for having rejected Jesus of Nazareth as the Christ, instead of leaving that judgment to God in the end time. And there is much in Christian tradition to bolster the view that Jewish suffering throughout history is therefore deserved. (Though it is true that the increasing amount of anti-Christian persecution today has disabused many Christians of that kind of easy, triumphalist thinking. Many Christians now know what it is like to be "Jews" in a hostile world.)

David Klinghoffer, sophisticated journalist that he is, is certainly aware of his audience. Why did he choose to write this piece for a readership, some of which at least, will agree with his theological conclusions *because of their own anti-Judaism*? That is giving aid and comfort to those who would still delegitimatize Judaism and the Jewish people. That is evil for any Jew, especially a religiously observant Jew like Mr. Klinghoffer.

Of course, where else could Mr. Klinghoffer have published such a piece? No Jewish journal that I know of would have accepted it. The only segment of the Jewish people that thinks it knows why God let the Holocaust happen to his people is the Satmar Hasidic community. In a tightly argued and meticulously researched theological treatise, the late Satmar Rebbe Joel Teitelbaum (who had greater than papal authority in his community) claimed that the Holocaust is God's punishment for the sins of the Jewish people, specifically those of the very "Reformers and secularists" whom Klinghoffer indicts. The fact that many more Hasidim than "Reformers and secularists" were killed only indicated to Rabbi Teitelbaum the force of the collective punishment that Mr. Klinghoffer embraces. And, furthermore, the worst sin of all this reform and secularism for Rabbi Teitelbaum is Zionism.

On this point, though, Mr. Klinghoffer is curiously silent. (The only hint of perhaps some anti-Zionism comes out in his assertion that in America "there is probably less hostility to Jews than in any country anywhere, including the State of Israel, at any time in history.") Could it be that this type of anti-Zionism would not sit well with the political agenda of Mr. Klinghoffer's employer, the *National Review*? For Zionism, even when advocated by religious Jews, is clearly an acceptance of a great deal of secularity (not to be confused with ideological secularism), and that is something political conservatives today (however religious) also embrace. Only Christian "theocrats" (who think quite similarly to the Satmar Hasidim) would disagree. Mr. Klinghoffer could, of course, practice what he preaches and become a Satmar Hasid. But, alas, Satmar

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Hasidim do their writing in Hebrew or Yiddish, meant only for the eyes of others who share their world of discourse. And I can't imagine the Satmar community allowing one of their own to work for a non-Jewish journal (or for even just about any Jewish journal) like *National Review*—or to write for First Things.

Klinghoffer's audience, then, seems to be predominantly Christian and mostly conservative politically. (Note how he considers Jewish concern with the utterances of "Pat Buchanan or Pat Robertson" to be "obsessive"—another Jewish sin, I guess.) This is not the audience that a Jew like David Klinghoffer should be talking to about Jewish *sins*. For on the religious level, many in this audience still believe that the Jewish sin is remaining Jews and not becoming Christians; and on the political level, many in this audience think it is a "sin" that so few Jews have moved to the right in their political views.

On the moral level, Mr. Klinghoffer's tirade is most evidently cruel. I shudder to think what my friend Sol, with the numbers tatooed on his arm in Auschwitz and who sits next to me every morning in the synagogue, would say to me about my connection to First Things if he read what David Klinghoffer has said about the murdered Jews of the Holocaust in its pages. And Sol's feelings as a direct survivor are only different in degree, not in kind, from all Jews alive today who are less direct survivors. Since Mr. Klinghoffer is so biblically oriented, he should remember what the Lord said to the "friends" of Job (Eliphaz, Bildad, and Zophar) about their conclusion from the suffering of Job that he must have sinned to deserve it. "My anger is kindled against you . . . for you have not spoken the truth about Me as has My servant Job" (Job 42:7). Even if one knew the sins of one who is suffering, that sin is not to be exposed. Our moral task is to resist the evil that was the immediate cause of the suffering of the Holocaust (Nazism), and help bind up its wounds that are still very much with us.

That does not mean we are to be morally oblivious to the Holocaust. But our reflection on it can only be prospective, not retrospective. Thus we are obligated to ponder what we can learn from it, not in order to prevent anything similar from happening again—that is beyond much of our control—but to consider what it means for our actions both now and into the future. Here Mr. Klinghoffer could have made a very valid moral point, which is that Jews who are alive today, all of whom are survivors by definition, should ponder this: *Just what are we to be surviving for?* Too much Jewish talk today simply accepts survival for survival's sake, or, as Emil Fackenheim would have us believe, we are to survive so as not to hand Hitler any posthumous victories. But if that is the case, then Jews actually need a mortally threatening enemy to give them a reason to survive. (Everyone needs a reason to survive, the will to live not being at all self-evident.) And that is the moral bankruptcy of "victimology," a disease not peculiar to Jews. Had Mr. Klinghoffer taken that line, he would have had good moral guidance to give his fellow Jews. For he certainly believes that Jews are to live for God's sake, which means being faithful to all of God's commandments in the Torah.

However, such moral guidance is credible only when it comes from someone who loves his people and knows much more of its tradition than Mr. Klinghoffer displays in his highly selective reading of Scripture. Perhaps David Klinghoffer in his heart does really love his (and God's) people—I hope he does—but, alas, his article evidences no such love. It is an angry tirade against Reform Jews, Conservative Jews, secularist Jews—and even Orthodox Jews, whom he singles out for charges of moral hypocrisy at the beginning of his article. Perhaps Mr. Klinghoffer despairs of his people—the feeling is quite understandable. But if his love of God does not entail love of Israel—as we exist here and now—it does not seem to be true love for our God after all. Does David Klinghoffer love any Jews?

And, finally, there is the theological offense of this article, an article that comes from one who "believe[s] the Bible comes to us from God and his prophets." (Oh, that more Jewish intellectuals were to say that!) But that reading of Scripture is dangerously flawed, for it assumes that because the prophets could connect our suffering with the direct intervention of God in history, any reader of Scripture can do the same. The fact is, though, that this type of judgment is only done selectively in Scripture itself (cf. Deuteronomy 25:17-19; Esther 3:8-9). Furthermore, it can be done only by a bona fide prophet. "For the Lord God does not do anything of which He has not revealed His secret purpose to His servants the prophets" (Amos 3:7). In other words, only a prophet knows, *because God has revealed it to him or her,* exactly *what* God has done in history. And that revelation is not a matter of theoretical insight as much as it is a matter of practical urgency. The prophet is to teach the people in a uniquely prophetic way the specific workings of God in history and how we are to actively respond to them in a way pleasing to God. But those who are not prophets have no right to speak as if they were prophets; in fact, they are guilty if they do so (see Deuteronomy 18:21-22).

Furthermore, according to the Talmud there are no more prophets in Israel since the destruction of the Second Temple (70 C.E.). So the Talmud teaches that the moral authority of the prophets has now passed to the rabbis, but the rabbis do not have prophetic revelation. They can only reason about God's law; they cannot tell us what are God's specific acts. That is why the Talmud also teaches that the prophetic way of speaking is now "given to idiots and infants." Accordingly, we should listen to the rabbis and emulate their reasoned approach and not pretend to be the prophets we are not, and who all level-headed adults know they are not. And it was the rabbis who taught us that the specific acts of God, which are His constant judgment of us, can be understood only in the world to come. In this world, we can only have faith in God's justice,

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but not knowing it we cannot discern its true effects and how it is directly connected to human action in the world. Along these lines, I fully concur with Mr. Klinghoffer's indictment of the "impotent" (I would have said "insipid") God proposed by Rabbi Harold Kushner in his best-selling books, precisely because a God who does not judge us is not much of a God at all; indeed, such a more likable "god" may well be a human creation. Nevertheless, to claim to know *how* God judges from the belief *that* God judges us is a theological non sequitur. Here prophecy is the excluded middle.

For traditional Jews, there are two Torahs, not just one. Scripture comprises the Written Torah and the whole rabbinic tradition comprises the Oral Torah. Scripture can be read in a variety of ways, but on any serious issue, especially one having practical results, Scripture must be read in a way that is consistent with the teachings of "our sages, may their memory be blessed." But David Klinghoffer has not done that. That is a serious sin. In this sense, he very much resembles the Karaites, a heretical Jewish sect who have rejected the authority of the whole rabbinic tradition, opting instead for their literal reading of Scripture. May David Klinghoffer repent of this sin; and may God forgive his sin, heal the hurt it has caused, and direct his undoubtedly genuine faith in paths that reflect proper love for God, his people Israel, and our authoritative historical tradition.

David Novak
Jewish Studies Program
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David Klinghoffer would have readers believe that anti-Semitism in the United States is dead. He goes so far as to equate the fear of anti-Semitism with the fear that the sun will not rise tomorrow. Unfortunately, Mr. Klinghoffer's analysis is incorrect, superficial, and misguided. One may express concerns about current manifestations of anti-Semitism and not be paranoid.

While it is clear that institutionalized anti-Semitism in education, housing, and the workplace is no longer prevalent, it would be rash to suggest that anti-Semitism is completely absent from American life. Today, different forms of anti-Semitism still confront American Jews. A 1992 nationwide survey conducted for the Anti-Defamation League found that about one-in-five Americans hold views that are disturbingly anti-Semitic. Moreover, in 1997 over 1,500 incidents of anti-Semitism were reported to ADL—many of which included acts of violence, intimidation, and harassment. Though the total number of incidents has declined in recent years, it is important to remember that every single act of anti-Semitism, however "insignificant," leaves an indelible mark.

Theories of Jewish power and Jewish control over the media continue to be propagated by anti-Semitic and extremist groups. Louis Farrakhan's Nation of Islam, for example, continues to espouse various anti-Semitic conspiracy theories about the Jewish people. Violent extremist groups—such as the New Order and Aryan Republican Army—have shown how anti-Semitic and racist beliefs can lead to potential death and devastation if left unchecked. Finally, the growth of the Internet has given many bigots a much larger and more readily accessible audience for spreading anti-Semitic and racist vitriol, particularly among the young and uninformed.

Ignoring these facts and simply retreating from the front lines is not a tenable option. Taken to its ultimate conclusion, Mr. Klinghoffer's argument leads to inaction and paralysis in the face of anti-Semitism. However, as long as the traditional Jewish concept of not relying on miracles continues to hold sway, organized Jewry and the ADL will continue the fight against anti-Semitism.

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I guess the Nuremberg trials were a big mistake. This conclusion follows from the outrageous argument made by David Klinghoffer in his "Anti-Semitism Without Anti-Semites," wherein he tells us that "while it would be a presumption to assert that God caused the Holocaust . . . in order to punish European Jews for their . . . secularism . . . it would also be a presumption, and a worse one, to assert that such a punishment was not what He had in mind."

There are today, living among us, Holocaust survivors who saw their own children murdered before their eyes by Nazi soldiers and their collaborators. The Vatican has recently described the Holocaust as "an unspeakable tragedy" in which "women and men, old and young, children and infants . . . were degraded, ill-treated, tortured, and utterly robbed of their human dignity, and then murdered." But David Klinghoffer wants us to understand this as punishment inflicted by God because people were not religious enough. Not that those who were inadequately punctilious in their ritual observance were murdered; it is rather that because European Jews strayed, as a group, from the straight and narrow that they were punished collectively. So to that survivor who mourns that murdered child, Mr. Klinghoffer offers this: perhaps you missed a few Sabbath services too many, or perhaps your neighbor did.

I am too dim to grasp how this argument can be made by one human being to another, and especially by one Jew to another. I am a believing and practicing Jew, although not as observant as Mr. Klinghoffer. He has in recent years become a Reform Jew, then a Conservative Jew, and now Orthodox. This is wonderful. What is not wonderful, what is horrible, is his willingness to argue that the murder of six million of his fellow Jews was God's punishment of the non-Orthodox. Mr. Klinghoffer writes that this reflects the "collective responsibility" of all Jews for each other. His theory of collective responsibility seems to run like this:

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I sin, God properly decides to have the Nazis kill your child. I would have thought that collective responsibility included mourning the six million who were brutally murdered, comforting their survivors, and punishing their murderers. Mr. Klinghoffer's argument offers not collective responsibility but a ghastly sectarianism that blames secular Jews—and credits God—for Hitler's work. This is not Orthodoxy, but blasphemy.

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In "Anti-Semitism Without Anti-Semites," David Klinghoffer takes his people to task for a number of sins and transgressions. Applying a narrow and literal interpretation of the Bible, he then proposes a theory about the Holocaust that has something offensive to say to everyone: Jews, non-Jews, and even God.

Mr. Klinghoffer does raise some genuine concerns. It is true that there are some Jews who pay greater homage to the Holocaust than they do to God. Some expend an enormous amount of time compiling evidence on incidents of anti-Semitism, while ignoring their own sins. And some Jews have succumbed to the "Cult of Victimhood," believing themselves to be morally superior by mere virtue of their suffering. To explain this phenomenon, Mr. Klinghoffer offers the simple hypothesis that Jews are obsessed with anti-Semitism and the Holocaust because they have a "guilty conscience" for failing to live their faith in strict observance of the laws of Torah.

Like the friends of Job, Mr. Klinghoffer seems unable to believe that bad things can happen to good people; ergo, the people must have been guilty of some monstrous sin to warrant a tragedy as horrible as the Holocaust. While hedging his cruel assertion with an admission that "we can never know God's true intention," he goes on to suggest that it is not outside the realm of possibility that "God caused the Holocaust, or allowed it to happen, in order to punish European Jewry for their increasingly widespread devotion to secularism."

As for us Christians, is it Mr. Klinghoffer's contention that we are just "chopped liver" in the eyes of our Lord? Are Christians some type of inferior people, created as mere pawns to be used by God to affect the lives of the Jews? This may come as a shock to Mr. Klinghoffer, but we Christians believe that we also have been created in God's image, that we have entered into our own covenant with God, and through the Incarnation of Jesus Christ, that we too have been offered an opportunity to partake of the divine.

In the words of Abraham Heschel, "Out of the darkness comes a voice disclosing that the ultimate mystery is not an enigma but the God of mercy; that the Creator of all is the 'Father in Heaven.' . . . The human species is too powerful, too dangerous to be a mere toy or a freak of the Creator. In his reason he may be limited, in his will he may be wicked, yet he stands in a relation to God which he may betray but not sever and which constitutes the essential meaning of his life. He is the knot in which heaven and earth are interlaced."

Polly Goldberg
West Lafayette, IN

The opinion by David Klinghoffer did not come off as he probably intended it. First, it embodies a stunning contradiction. On the one hand, he says that fears of anti-Semitism are exaggerated; on the other, he warns of terrible punishments to come.

At the root of this contradiction lie two horribly wrong theses. The first is a thesis of collective guilt, including the proposition that, as a rule, a whole group suffers for the sins of a few individuals. Yet, in fact, innocent groups often suffer unaccountably for no sin of their own. There is no "law" of collective guilt.

The second horrible thesis is that when Gentiles do evil to the Jews, they are acting as instruments of God. This is a terrible accusation against Gentiles. In addition, it seems to suggest that those who do evil are not fully culpable for the evil they do but are merely instruments of an irresistible power. In fact, when Christians do evil to Jews, it is a doubly vicious act; it is like a young man doing evil to his older brother.

Finally, the picture of God that Mr. Klinghoffer presents is far too primitive. The questions he chooses to wrestle with are enormous and tormenting, but he has taken some trails that show how *not* to address them. There is evidence in the essay that his intentions are better than his execution.

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Considering that the April edition of First Things arrived in my mailbox within a day or two of the buffoonish Jewish holiday of Purim, I might be forgiven for thinking at first that David Klinghoffer's piece, "Anti-Semitism Without Anti-Semites," was a *Purim Torah*—that seasonal genre of Jewish literature that combines one part religious erudition for every nine parts farce. What else indeed could be made of an article that repeats the important but by now tiresome critique of silly fear-mongering in the fundraising appeals of some national Jewish organizations, but then devotes the bulk of its space to propounding as "the authentic Jewish view" a hateful proposition (God ordained the Holocaust in response to Jewish sinfulness) which the contemporary Jewish community universally condemns as an obscenity?

Many Jewish thinkers of the past half century have noted the irony that it was the European Jewish communities steeped in traditional piety that were all carefully annihilated, one by one, in the flames of the Nazi Holocaust. In contrast, the millions of liberal and secular Jews in America, who had quickly and joyfully cast off the yoke of Jewish law and tradition, escaped entirely unharmed and were left unhindered in their creation, as Mr. Klinghoffer

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notes, of the most secure and prosperous Jewish community in the three thousand years of our existence as a people. Together with the unprecedented enormity of the Jewish suffering of this period, this fact was sufficient to eradicate along with the Six Million a particular strain of Jewish thought that Mr. Klinghoffer, entirely alone among Jews, wishes to resurrect in its crudest form.

It is true, as Mr. Klinghoffer asserts, that a prominent theodicy of the Hebrew Bible explains collective Jewish suffering as God's punishment for the people's sins. This is the view expressed in, for example, Deuteronomy 11:13-25 and 28:1-68, and it is indeed a rather harsh and simple one: If Israel obeys God, Israel will be blessed; if Israel disobeys, God will punish the people with one or more instances of plague, famine, military invasion, and exile. Yet the Bible speaks in many voices, and offers a strikingly different theodicy in Job, for example, and in some of Psalms, both equally canonical to Deuteronomy in traditional Judaism. In Job 42:7 God Himself is shown explicitly to reject the Deuteronomic view of Jewish suffering that Mr. Klinghoffer asserts. And it's a good thing, for otherwise Mr. Klinghoffer might logically have had to conclude that the religiously observant European Jews were the sinners while we rich and carefree American Jews merit divine favor. God indeed may not "practice precision bombing" in dispensing catastrophic punishment, as Mr. Klinghoffer claims, but surely the Almighty's aim is not so poor as to hit the exact opposite of his proper target—six million times over.

This is of course to say nothing of the further 2,500 years of development in Jewish thought and practice since the biblical canon was closed. It is curious, to say the least, that an Orthodox Jew like Mr. Klinghoffer would join forces with those who stereotype Judaism as an ossified anachronism, unchanged since the cruel and unmerciful days of the Old Testament. This centuries-old Christian slander has found an unlikely ally in Mr. Klinghoffer, who ignores the fundamental rabbinic principle of *halakha k'vatraei*—Judaism stands according to the views of its contemporary authorities and interpreters.

One such authority who surely has greater standing to reflect on the significance of the Holocaust for Jewish theodicy than Mr. Klinghoffer is Rabbi Kalonymus Kalmas Shapira, the spiritual leader of the Warsaw Ghetto who perished as a martyr in 1943. Certainly no mushy modernist or theological liberal of the sort Mr. Klinghoffer scathingly accuses of abandoning the authentic Jewish view by portraying an "impotent" God, "weeping quietly in some corner of Heaven," Shapira was a Hasidic rebbe and heir to the rabbinic dynasty of the Polish shtetl Piaseczno. Yet in his sermon of February 14, 1942, which survived the destruction of the Ghetto hidden in a buried milk can, Shapira explains the Holocaust in terms that the liberal Rabbi Harold Kushner would recognize. The rebbe by then had already rejected the view that the current torments were a punishment for Jewish sins, because the Nazi cruelties had made prayer, study, and the performance of other mitzvot much more difficult, thus contradicting the nuanced traditional understanding that divine chastisements are intended to punish but also to lead Jews back to God. Instead, Shapira drew on the material of an ancient countertradition found in the Talmud, in traditional Jewish mystical texts, and in the Bible as well (the reference in Isaiah to God's "hiding his face")—all to teach that when a Jew suffers he does not do so alone, for God himself weeps for him and "is afflicted (even) much more than the person is."

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In his article, David Klinghoffer offers himself to the reader as part social critic, part therapist, and part biblical interpreter. He is somewhat more successful in the first of these three roles than he is in the other two.

It is true that there is something strange about the preoccupation of contemporary American Jews with anti-Semitism and what Mr. Klinghoffer calls the near obsession with the Holocaust. He is also correct in saying that its strangeness derives from the near absence of vigorous anti-Semitism in most important American quarters (though not perhaps among African-Americans). Why then, he asks, do Jews not recognize this? Or if, as he observes, they probably do, why do they act as if this were not sufficient unto the day? Why do they act as if virulent anti-Semitism was about to reemerge and why, in particular, are they obsessed about the Holocaust? Is this not, he asks, a simply irrational fear and obsession?

Mr. Klinghoffer offers a number of answers. Some have a certain force. But this is in part vitiated by the fact that he does not credit the first and most important answer: the fact that the decline of American anti-Semitism has a great deal to do with the Holocaust and that American Jews have some powerful if inarticulate sense of that. When American troops liberated Buchenwald, General Eisenhower, responding to questions frequently raised before and during the war about the propriety of American involvement, declared to the troops that they now knew what they had been fighting against. This not only settled the status of the war but helped to determine the future status of racism within American society. The racism of the 1930s, including its anti-Semitism, was no longer legitimate because it was now associated with the horror of the Holocaust. Its decline, then, was in effect partially paid for by the blood of our dead European sisters and brothers, and we contemporary Jews somehow know this.

It is no doubt ugly that we American Jews go on trading on their blood. But the temptations to do so have been enormous, beginning with the sense that our benign status in contemporary America has its origin in American horror at the Holocaust and fear that such horror will fade over time. Moreover, if anti-Semitism has steadily declined in America, such is not the case worldwide, where

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beginning with the Six Day War, it has enjoyed renewed legitimacy. Hence it goes too far to say that American Jewish concern with anti-Semitism is simply irrational.

There are other and less respectable temptations as well. Among the other temptations, Mr. Klinghoffer is surely correct in emphasizing what he calls the cult of victimhood and its perverse effect on our national life. No doubt we should not yield to this temptation.

Mr. Klinghoffer is also correct that there are other objections to be made to our obsession with the Holocaust. It is, as he implies, the flip side of our appalling ignorance of most things Jewish, including and perhaps especially the Bible. All this is regrettable, but is it really pathological? Above all, is it remediable in the ways he suggests?

I will leave an assessment of his psychoanalysis to the appropriate experts. But his foray into biblical interpretation offers no remedy and is itself appalling.

He observes that the Bible has nothing to say about anti-Semitism. That is true for the simple reason that it did not exist. It took the nineteenth century to invent it and some pedant of the time to name it. It may be true that the Bible has a more profound understanding of human evil than ours. That at least is my view. But Mr. Klinghoffer's account makes it hard to see what the difference is and learn from it. His doctrine of collective responsibility, allegedly of biblical origin, resembles by its collectivism modern racism's notions of collective inferiority and impurity. In the end, he says, it was not the Nazis who were "responsible" for the Holocaust but the European Jews. But does not responsibility require the capacity to make choices, and is it not obvious that the Nazis had more freedom to choose than the European Jews whom they murdered? Mr. Klinghoffer's account seems to have the effect of importing modern racist doctrine into the Bible itself. If his account is true it is hard to see what we have gained by our recourse to the ancient wisdom of the Bible. If it is not true it has served only to confuse matters further.

As Mr. Klinghoffer reads it, the Bible presents no examples of Jewish, or more accurately Israelite, suffering that are undeserved. Everything they suffered was deserved. But this is simply untrue. Nor are examples of undeserved suffering obscure, beginning with the enslavement of the Israelites in Egypt, whose suffering and liberation we Jews lament and celebrate at Passover. To this may be added the assault of the Amalekites on the Israelites in the desert and the viciousness of their heir, Haman, of whom we hear at Purim. Were it not for these events and others like them we could not read in the Psalms that "For Thy sake they have been killing us all the day long; we are considered as sheep for slaughter" (Psalm 44:23). The whole psalm deserves Mr. Klinghoffer's attention.

Mr. Klinghoffer admits that there may be a presumption in the kind of speculation in which he engages. Indeed there is a presumption, a presumption described in an important biblical passage. "The secret things belong to the Lord. The things which are revealed to us and our children forever are to do all the things of this Torah" (Deuteronomy 29:29). The ultimate understanding of the Holocaust must surely be, in the Bible's view, one of the hidden things, and it is just as surely presumptuous of Mr. Klinghoffer to offer us the divine understanding of the matter. It is also heartless.

If it is not simply forbidden to us to try to understand the Holocaust, if we cannot help but try to understand it, it is because the "secret things" are not entirely secret; they are not simply "in heaven" or "beyond the sea" (Deuteronomy 30:12-13). They are human, perhaps all-too-human, but Mr. Klinghoffer would do better to stick to that. As I said, it may be ugly for us American Jews to trade on the murder of our European brothers and sisters. But Mr. Klinghoffer's response is no solution. Rather it unjustly and impiously defiles their memory.

Hillel Fradkin
Milwaukee, WI

David Klinghoffer is to be commended for his opposition to the preoccupation with the Holocaust that has taken hold of American Jewry in recent years and, in most instances, usurped the central place that ought to go (and traditionally went) to the study and practice of Torah. He is also correct both to say that "it would . . . be a presumption to assert that God caused the Holocaust, or allowed it to happen, in order to punish European Jewry for their increasingly widespread devotion to secularism" and to note the important point that "[I]n any given historical event, we can never know God's true intention." He is too sweeping, however, in his judgment that "the Jews of the Bible . . . understood Gentile hostility to be an expression of God's displeasure with us as a community." This is certainly not the case with the anti-Semitism the Jews faced in the Book of Esther, for example, and even in the prophets the possibility that Israel is suffering unjustly is sometimes taken seriously and brought to God's attention. In short, in the Bible not all suffering is punitive.

Rabbinic literature is usually more solicitous of the good name of the people Israel than is the Bible. Mr. Klinghoffer may want to take note of the midrash to the effect that Moses was denied entry into the Promised Land because he called the people "rebels" or "fools" (Numbers 20:10). If, "in any given historical event, we can never know God's true intention," we had best follow the rabbinic injunction to judge others charitably—if at all.

Jon D. Levenson
Harvard University
Cambridge, MA

I have been a reader of First Things since the first year or so of its publication. During that time I have found in it many things to disagree with—but the April issue contains the first article that has actually made me angry.

David Klinghoffer writes of the ancient Israelites that they "believed in collective responsibility." "That

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means that when individual Jews do wrong and bring punishment down from Heaven, innocent Jews may get caught up in the maelstrom . . . the guilty may escape punishment in this world altogether, while the innocent die and must wait for their reward in the world to come."

This is certainly not what ancient Jews believed, for there is no mention of any "Heaven," or of any "Hell," anywhere in the Old Testament. But what infuriated me personally was Mr. Klinghoffer's comment on the Holocaust, based upon this idea of "collective responsibility."

Does this mean that the egregious case of human evil represented by Hitler and the Nazi movement had nothing to do with the murders and the suffering of the Holocaust? Was it really all the fault of "reformers" and "secularists" among European Jews, those classifications into which Mr. Klinghoffer would place any Jew who does not meet his standards of "piety," "religious observance," or purity of belief (such as those ancient Israelites who, he seems to think, believed in a Christian heaven!)?

Mr. Klinghoffer writes: "The difference between us and the Jews of the Bible, and indeed the Jews of every generation until a century or two ago, is this: They understood Gentile hostility to be an expression of God's displeasure with us as a community. We understand it to be essentially meaningless."

The fact is that until a century or two ago just about everyone on earth thought that such things as earthquakes and plagues were expressions of the displeasure of some God, or gods.

But I cannot see how any thoughtful Jew—or any thoughtful person of any religious affiliation—could see Gentile hostility toward Jews, such as that manifested in the Holocaust, as *meaningless*. It clearly illustrates what I find to be the Old Testament's chief, and most useful, theme—that of the limitless depths of human depravity and evil.

The Holocaust was neither an expression of divine displeasure, nor was it "meaningless." It only showed on a gigantic scale that, as Solzhenitsyn said, the line between good and evil runs not between Heaven and Hell, but right through the middle of every human heart. It is this which the Jews (and Christians) of the Bible understood.

Edmund Weinmann
Huntington, NY

David Klinghoffer may be right in ascribing to modern Jews a paranoiac "anti-Semitism without anti-Semites," or in saying that "in America today there is probably less hostility to Jews . . . than at any time in history," or in describing the Holocaust as God's punishment to Jews collectively for forsaking His ways. I happen to belong to that minority he castigates for believing that the Holocaust was demonically inspired—but of course Satan can only work when people have forsaken God and His ways.

However, I think Mr. Klinghoffer is wide of the mark when he attributes to Judaism the Cult of Victimhood. In fact, one could excise the word "Jews" from his remarks about victimhood and come up with a valid judgment of modern Christian (and other) America today:

> We . . . have lost the consciousness of collective responsibility. . . . We have quit teaching our children that God lives, that He loves us, that He wants relationship with us—but that He wants something from us in return. . . . We know, in our souls, that we have gone astray; but . . . we are in denial. . . . Any hostility we can detect . . . is entirely unmerited. We have done nothing to deserve it. God isn't angry with us. . . . We don't live like . . . we should, but that's alright. God doesn't mind. He isn't going to punish us for our disobedience. . . .

The Jewish people have been likened to the canary in the coal mine: it can predict what may happen to us if we don't pay attention. Mr. Klinghoffer finishes (rightly): "Anything can happen. And it just might." And it applies to us Christians, in addition to—or perhaps more than—Jews. God help us all.

Mary R. Carse
Hinesburg, VT

**David Klinghoffer replies:**

Good heavens. Well, any reader in search of high drama in the genre of letters-to-the-editor has come to the right place. In the above responses, along with the article I wrote I am tagged with such words as "horrible," "ghastly," "blasphemous," "appalling," "racist," "heartless," "impious," "hateful," "primitive," "cruel," and "evil." Not since college, when I criticized the Third World Center in the campus newspaper, have I been the target of such a hail of colorful nouns and adjectives. Regretably, FIRST THINGS was unable to reproduce my favorite response to the piece, with the name of its author, since it came to my private e-mail address. This one darkly warned that I had better "recant what you said about the Holocaust. . . . Based on long experience, I would say that if you don't do that *immediately*, you will never live this article down and even your friends (a fortiori your enemies) in the Jewish community will desert you." The writer does not indicate who these "friends" might be, individuals who will abandon a comrade for ideological errors without even first having identified themselves to him. For sheer trumped-up melodrama, this e-mail wins the grand prize.

However, David Novak's letter deserves special recognition, too, perhaps an engraved tub of schmaltz, which he flings at me by the handful in the form of his friend Sol of the tattooed arm. Whenever you want to impugn the moral instincts of somebody who disagrees with you, there is no more tempting weapon to wave about than a disfigured Auschwitz survivor. But it comes as a surprise that a scholar of depth and sobriety like Rabbi Novak should resort to such tactics. In fact his aria-length contribution is far less serious and more exaggeratedly

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rhetorical than I would have expected from him, often in amusing ways. I particularly like the quivering paragraph, worthy of the operatic stage, which he concludes by asking "Does David Klinghoffer love any Jews?" He proceeds to invoke no less than the sin of false prophecy, a capital crime in Jewish law. (To my relief, Rabbi Novak has assured me he doesn't actually think I deserve the death penalty.)

Speaking of my sins, it would appear they also include the high crime of being, in Rabbi Novak's opinion, an insufficiently ardent Zionist, a fault he extrapolates from my observation that America is safer for Jews than Israel is. Does he mean that, as an ardent Zionist himself, he thinks it's safer to be a Jew in Israel, where Jews get blown up, shot at, and knifed every month precisely for being Jews? Doesn't he read the newspapers? In America there is almost no place that I would want to visit where out of fear I would feel obliged to take off my yarmulke; whereas on recent trips to Israel, in order to avoid hostile Arab attention, I've found myself taking it off frequently. (The experience of most American Jews effectively enough rebuts the alleged statistical proofs of significant levels of anti-Semitism in American life adduced by Kenneth Jacobson of the ADL.)

Finally, there is Rabbi Novak's culminating passage which falls into the category of the *tochachah*, a rabbinic term meaning a formal rebuke and call to repentance. According to Jewish law, such an admonition is not to be delivered in public unless the admonisher has already attempted unsuccessfully in private, which Rabbi Novak did not. For reasons that are unclear to me, he doesn't seem to feel that limitation applies in this case.

Some other noteworthy responses include Elliott Abrams', on the one hand, and Michael Novak and David H. Osachy's, on the other, which I find puzzling for different reasons. In his recent, important book *Faith or Fear*, Mr. Abrams bravely and intelligently assails the trend toward venerating the Holocaust, so he was the last person from whom I'd expect a letter like the one he's written. Like David Novak, he misrepresents my argument. I specifically did not assert that the Holocaust was "a punishment inflicted by God"; I did specifically say that we can never know such a thing, at least not in this world. Anyone who takes the Bible seriously, however, will have to admit that history is not meaningless and the Lord does sometimes operate in the world in ways that, to us ignorant humans, seem pointless or cruel. God has created the world in such a way that our sins can bring about circumstances from which horrible sufferings arise—for us, or for other people. This is one of the persistent themes of the Bible. That a wise writer and a serious Jew like Elliott Abrams regards my articulation of that theme as "blasphemous" can only mean that in some way I failed to make myself clear.

He declares that, if I am right in the arrogant assertion he attributes to me, then "the Nuremburg trials were a big mistake." But even if I had said what he says I did, that wouldn't logically follow. Consider, as Hillel Fradkin suggests, the Book of Exodus. Contrary to what he writes, the Jews did not fall into Egyptian slavery by chance. God sent us there for His own pedagogical reasons, including one that the Passover Haggadah alludes to. We are told that Israel went down to Egypt because we were *"anoos al pi ha'dibur,"* literally, compelled by the mouth of utterance. A tradition explains that this means it was the sin of Joseph—who bad-mouthed his brothers, who in turn got wind of it and kidnapped and enslaved him—that resulted in the enslavement of the entire Jewish people, innocent and otherwise. And the Bible tells us explicitly that God hardened the heart of the Egyptian king, thus prolonging our servitude. In some sense the Egyptians were acting at God's behest. Yet when the Egyptian army was destroyed at the Sea of Reeds, their own Nuremberg, it was an occasion for singing songs of praise to God. When God employs a bad man to teach someone else a truth by making him suffer, the Bible sees no contradiction in His then punishing the former individual for being the type of sinner whom God would employ for such a purpose in the first place. (Polly Goldberg, please take note. This doesn't make the Egyptians "chopped liver" either. Jews and Gentiles alike are created in God's image, all of us actors in the divine drama of human history; but that doesn't mean the Lord just kicks back and enjoys the show without intervening and directing us as He sees fit.)

Michael Novak and David H. Osachy, if I read them correctly, regard the biblical idea of collective responsibility as excessively "primitive" (Novak) or reminiscent of the "cruel and unmerciful days of the Old Testament" (Osachy). Mr. Novak is a Christian thinker. Mr. Osachy styles himself a rabbi, though his Reconstructionist Movement has long taken a skeptical view (to put it mildly) of the Jewish belief in a personal God, a skepticism which negates the traditional idea of a rabbi as carrier of the oral tradition revealed by God at Sinai. He would have us understand that more advanced forms of Western religious faith have developed in the past 2,500 years (actually it is some 3,300 years since the Revelation at Sinai) so as to leave behind the "cruel and unmerciful" legacy of the Hebrew Bible, and Mr. Novak seems to agree. But that would make Judaism and Christianity a sort of two-headed fraud, since each religion has always taken the truth of the Bible as its foundation. It is an intellectually coherent option to reject the biblical understanding of God, but if that is what Novak and Osachy mean to do in their respective letters, I don't see why they have felt moved to enter this discussion. The question we are considering here takes as a given that God lives and that He is the same God whose revelation is recorded in the Hebrew Bible.

Hillel Fradkin and Jon D. Levenson dispute my contention that the Bible consistently presents God as punishing the Jews, or allowing us to

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be punished, through the medium of Gentiles. They mention several episodes in Scripture where Gentile hostility seems unrelated to any Jewish moral failing. Here my correspondents usefully remind me of something I had neglected to mention: namely, that the Bible is a cryptic text and was never meant to be read like a newspaper. Rabbi Novak accuses me of rejecting the Oral Torah—without which, as he and I agree, the Written Torah and the rest of the Bible are largely incomprehensible. (Edmund Weinmann should keep that in mind the next time he wants to blithely and categorically state that the Jews of the Bible "certainly" did not believe in this or that "because there is no mention [of the matter] anywhere in the Old Testament.") But the truth is that, as I should have stated explicitly, the authentic Jewish understanding of the role of hostile non-Jews appears even more clearly in oral tradition than it does in Scripture itself.

Take for instance the cases of Amalek and Haman. Amalek, no mere extinct desert tribe but the embodiment of a worldview that sees the universe as a place ruled by randomness rather than the will of God, first struck the wandering Israelites at "Rephidim" (Exodus 17:8). But that word refers to no identifiable location in the vicinity of the Sinai wilderness. Rather, it signifies a spiritual condition; a midrash explains it as a contraction of the Hebrew *"rafu yedehem min ha'torah,"* "they loosened their grip on the Torah." As the biblical commentator Rashi notes, in the preceding verse we find certain Israelites asking among themselves, "Is the Lord among us, or not?"—within weeks of their miraculous departure from Egypt and the splitting of the Sea of Reeds! The oral tradition is very clear that the Jews became vulnerable to Amalek's physical assault because they had already begun to assimilate the Amalekite philosophy, which, it is worth noticing, bears an eerie resemblance to modern secularism.

The same applies to Haman and the Purim story, as related in the Book of Esther. Of course in that event not a single Jewish life was lost, but an opinion in the Talmud, repository of the oral tradition, takes for granted that "the Jews of that generation deserved extermination." Why? Their spiritual condition is symbolized by a feast described in the first chapter of Esther, hosted by the wicked king Ahasuerus. Regarding the Jews who were present at the feast, the Talmud emphasizes that they enjoyed themselves. They might have felt compelled to eat, but not to rejoice in their hearts with their evil lord. God hardened Pharaoh's heart, but one point of the tale of the feast is that these Jews appear to have hardened their own. For that, disaster nearly overtook not only the Jews on hand that day but all the Jews in the kingdom.

A final objection raised against me has to do with what some of the writers above (Elliott Abrams, David Novak, Polly Goldberg) regard as a hardness in my own heart. Comments Mr. Abrams, "So to that survivor who mourns that murdered child, Mr. Klinghoffer offers this: perhaps you missed a few Sabbath services too many, or perhaps your neighbor did." It would of course be monstrous as well as moronic of me to say anything like that to anyone, but Mr. Abrams does raise a valid question: Should these matters be discussed at all, for fear of creating hurt feelings on the part of Holocaust survivors? As a rabbi I know put it to me after he had read my article, "If you broke your leg and ended up in the hospital you might well ask yourself what if anything God was trying to tell you. But if you broke your leg and I came to visit you at the hospital and urged you to think about what God was trying to tell you, that would be inappropriate." It would indeed, which is why, if I may be permitted to join David Novak in hoisting up a Holocaust survivor of my own, I would not venture to share my thoughts on this subject with, for instance, my landlady, a stout seventysomething who as a girl was pushed by her older sister off a train on its way to a Nazi death camp. Nor would I discuss it with Sol.

Instead, I wrote an article in an ecumenical monthly read mainly by scholarly Gentiles, but also, as the above letters demonstrate, by Jews, and in fact precisely the kind of Jews—intellectually mature, influential in the wider Jewish community—that I most wanted to reach. While the large number of reactions I've received to the article from Jewish intellectual types has caused me to reevaluate my assumptions about the readership of FIRST THINGS, I assure you that my landlady does not read FT, and I take it that Sol doesn't either. One could argue that it would have been better to publish the article in a Jewish magazine, but then it likely would have been read by some Holocaust survivors who are not worldly intellectuals, and that would have made me uneasy. It might well upset someone with direct experience of the camps or the war, but without experience of the sometimes rough-and-tumble discourse of opinion-journal articles. Practically speaking, the alternative to saying what I did where I did would have been not to say it at all.

The point of the article, incidentally, had to do with the Holocaust only in a marginal way. Alas, almost none of my correspondents (excepting Hillel Fradkin and Mary R. Carse) bothers even to mention, much less address, its main theme—a psychological explanation of the Jewish obsession with phantom anti-Semitism. Instead, all of the above focused on a single paragraph. I urge anyone who is interested to go back and read the original article and see what all the fuss wasn't about.

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This Time

# Home, Alien Home

*James Nuechterlein*

Each time I return to Frankenmuth, as I did again earlier this summer, I am plunged into family history. Located in the Saginaw Valley in east central Michigan, Frankenmuth is one of four small communities established in the area by German Lutheran immigrants from Franconia (now part of Bavaria) in the late 1830s and early 1840s. All four of my family names—Nuechterlein and Hubinger on my father's side, List and Strieter on my mother's—are included in the roster of the earliest settlers.

The original purpose of the Frankenmuth community was to do missionary work among the region's Chippewa Indians. That didn't come to much: the Chippewa were resettled by the government shortly afterwards, and, in any case, it is difficult to imagine those theologically rigorous Lutheran immigrants—insistent at all times that the distinction between law and gospel be strictly maintained—having much success in proselytizing efforts among a people to whom the simplest expressions of Christian doctrine would have seemed quite esoteric.

But religion remained central to the Franconians' enterprise: the founding charter specified that anyone who gave up the faith thereby excluded himself from the community. The settlers were determined to retain both sides of their German Lutheran heritage, but religion was always more important to them than language or ethnic identity. Lutheran orthodoxy could best be maintained, they thought, if the language barrier helped shield the community from the doctrinal indifference it perceived in the surrounding American Protestant culture. (That indifference, the immigrants believed, had already corrupted much of American Lutheranism.)

Frankenmuth stayed loyal to its founders' intentions. For over a century after its founding, it remained a culturally isolated enclave, overwhelmingly German and Lutheran. (In 1847, the Franconians joined with Saxon German immigrants from Perry County, Missouri, who were equally rigorous Lutheran confessionalists to form what eventually became the Lutheran Church—Missouri Synod.) My parents left the community (they were not from Frankenmuth itself, but from the nearby rural community of Frankenlust) and wound up in Detroit. In moving, they made a self-conscious break with German ethnicity (though not with Lutheranism). Their children would be Americans, and they did not teach us the German that had been their own first language but which they now spoke only when they wanted to keep things from us. They did not break off family ties, however, and parts of every summer were spent in visits to relatives in the Frankenmuth/Frankenlust area.

As a child, I was puzzled by aspects of life there. I noticed that my cousins spoke English with a distinct German accent and that in moments of excitement they would often unconsciously switch from English to German—though, noticing my bafflement and out of deference to my odd inability to speak or understand the language, they would quickly switch back to English. It was only later that I came to realize that in Frankenmuth, more than a century after its founding, everyone (well, almost everyone) had German as a first language and thus spoke English as if they were recent immigrants.

I gradually learned just how close the community was and how binding its cultural patterns were. In perusing family history as far back as I could, I could find no one, on either my father's or mother's side—including those who had left Frankenmuth—who had married anyone other than a German Lutheran. (As a quasi-rebellious young man, I was determined to break the pattern. For reasons having nothing whatever to do with family tradition, I did not.)

Years later, when I started teaching American history, I would use Frankenmuth to indicate to my students that the then-prevalent image of America as a melting pot did not capture the whole truth of the nation's immigrant experience. Frankenmuth, indeed, was multicultural before multiculturalism was invented—though its bedrock conservatism would not likely recommend it to most multiculturalists.

Today's Frankenmuth is very different from what it was in my childhood. In 1958, someone came up with the idea of running a Bavarian Festival every summer. It caught on immediately, and the quiet, isolated Frankenmuth of the immediate postwar years is now one of the premier tourist attractions in Michigan—indeed, in the whole Great Lakes area. And not just during the Festival. It has become a year-round tourist magnet. Its two largest restaurants—Zehnder's and the Bavarian Inn—both rank in the top ten in the country in terms of numbers of meals served annually. It also has a megastore devoted entirely to Christmas-related products—Bronner's—that advertises throughout the Midwest and is the largest of its kind anywhere.

The Frankenmuth of my childhood has been transformed. Then it was relatively dull and poor; now it bustles with prosperity. On a summer afternoon tourists fill shops that have sprung up along crowded streets that were once virtually

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deserted. The ethnic character that for so long set the community apart has become the basis of its economic success. The Frankenmuth I remember simply *was* German; now it is self-consciously so. Lederhosen and gemütlichkeit abound. For the sake of visitors from Detroit, Frankenmuth is today more Bavarian than Bavaria. It is still predominantly Lutheran, but its prosperity has made it more religiously diverse and—how could it be otherwise?—less religiously preoccupied. At its founding, the community nourished its ethnicity to protect its faith. Now it does so to protect its economic base.

I still love visiting Frankenmuth, and in some ways I feel quite at home there. Nowhere else can I assume that clerks in stores or motels will know how to spell and pronounce my last name, which to them is no more out of the way than "Johnson" might be elsewhere. (The last time I checked, there were seventeen Nuechterleins listed in the local phone book.) When our youngest daughter visited there for the first time as a small child, she was surprised and delighted to see her name on several store fronts, including a neon "Nuechterlein Jewelers." A stroll through the cemetery becomes a revisiting of family history.

But the feeling of familiarity is superficial and misleading. In many ways, Frankenmuth is no less strange to me than other prosperous tourist towns I have visited. Like them, it has a somewhat unreal air, and being there seems a pleasant but artificial excursion from ordinary life. I enjoy the German culture, but, thanks to my parents, it is not really my culture. (I had to go to college to learn to read the language, and I cannot begin to speak it.) Even its Lutheranism is unfamiliar to me: the liturgy and the preaching style at the largest local congregation, I discovered on my most recent visit, are quite different from what I have become accustomed to.

As my wife and I drove out of town, Thomas Wolfe's "You Can't Go Home Again" flashed through my mind. But, as I immediately realized, that's not quite right. The Frankenmuth community was home to my forebears and my parents, not to me. The nostalgia I feel there is for a way of life that could have been mine, but never was. When you really get down to it, I'm just another tourist. FT

## When Rockets Fell Like Stars

We prowled that part of the base at midnight,
high on crowbars and beer. We smashed car lights
and ripped the chrome off doors. Nothing beat
being drunk enough to die when bar girls screamed
and rockets fell like stars, one more
Cadillac dismantled upside down. We swore
whoever owned such cars were black-market heads
or Vietcong cousins who wanted us dead,
boys whose war crashed down in darkness, the rage
of VC mortars and rockets fired at the base.

When I was ten, we met each other's boasts
with knives, how near we could throw at toes
without flinching. One time I pitched too close,
and Joe Bob cursed and hurled the knife at me.
From then on, blades stayed closed and in our jeans.
Talk turned to girls and what to do
if we made somebody bleed. Roaring tunes
with country and western words in Saigon,
trying to ignore all falling fire, we staggered
back to sandbagged bunkers, daring the blare
of sirens to kill us, swearing we didn't care.

**Walt McDonald**

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# Opinion

## The Imitation of Mr. Starbuck

*Nancy Harvey*

Imagine an enormous royal blue tick. If that seems too repulsive, imagine a large royal blue beachball. Let a little of the air out to soften the shape. Add six scrawny appendages—two arms with three-fingered hands, and four short legs, each one ending in a brown shoe. Put a large yellow star (five-pointed) on the stomach. Set a bright blue head about the size of a cantaloupe on top of a tiny neck, and let two stubby antennae sprout from the top. Finish the face with two large, pleading eyes, a yellow clown nose, and a hesitant, crooked grin.

This is Mr. Starbuck. This is our mascot for teaching character education in our public school.

Character education is fashionable these days. It comes, not at the request of parents, but in response to upper-level teachers and members of the business community tired of dealing with irresponsible young adults who arrive late or not at all, who are lazy, careless, and rude, and who expect grades or pay for doing almost nothing.

Mr. Starbuck is supposed to help remedy this. He promotes thirteen "responsibility skills"—be prepared, be on time, be here, be responsible, be a worker, be a listener, be a goal-setter, be a risk-taker, be polite, be friendly, be confident, be a doer, be healthy.

These skills are printed on large shiny posters in the school colors, black on gold. Every elementary and middle school classroom has a poster, along with the office, the library, the cafeteria, the gym, the restroom, the stores downtown, and the churches. (In the Catholic church, the list was in the back of the sanctuary, next to the picture of the Sacred Heart.)

Large drawings of Mr. Starbuck adorn the elementary school bulletin boards, and smaller portraits decorate clock faces and note pads. His picture, taken with each student of the month, lines the halls. Large blue dolls in his image sit on chairs in the classrooms. In music class, children sing the Mr. Starbuck song.

November 14th is his birthday. The elementary school has an assembly so that teachers and children can perform songs and skits in his honor. As soon as a suitable flagpole is installed, the Mr. Starbuck flag (blue creature on a white background) will fly over our school.

So what's the harm in Mr. Starbuck? Children do need to be responsible, just as they need to brush their teeth and drink milk. If a wistful blue blob can help, why not? After all, we've been using folk heroes (real and imaginary) to encourage children for quite some time, from Santa and fairy-tale heroes to George Washington and the cherry tree.

But Mr. Starbuck is different. Santa is generous, Jack the Giant Killer brings down the bullies, George Washington could not tell a lie, and heroes of folklore are variously brave, generous, loyal, truthful, just, and charitable. But none of these qualities are on Mr. Starbuck's list. As a creation of professional educators, Mr. Starbuck has nothing to do with virtue. In the naked public classroom, his "responsibility skills" must be neutral.

This would not be a problem, except that the mascot and the program are marketed as Character Education, and most of us, when we hear the word "character," still think of virtue. We do not consider Adolf Eichmann as a man of character, although his "responsibility skills" were excellent. In fact, the "banality of evil" described by Hanna Arendt was caused in part by Eichmann's inability to see beyond "responsibility skills" to virtue. He continued to think of himself as a good man, bewildered that the world considered him a monster.

Of course, the imitation of Mr. Starbuck will not turn our children into Nazis, but strong "responsibility skills" without any deeper virtue to guide them can be dangerous, and calling this program Character Education is misleading. It is also rather beside the point to say, as its proponents do, that we must teach these skills at school because most children no longer go to Sunday School, and the parents don't teach responsibility at home. Mr. Starbuck has nothing to do with Sunday School, which is about right and wrong, good and evil, the Bible, God, and Jesus. Parents certainly need all the help they can get teaching responsibility to their children, but the idea that the school can cure the parents' neglect is one of the biggest lies believed by public educators, who refuse to recognize the truth of Chesterton's statement that the state is "too large and too loose" to be a family to a child.

A while back, while standing in a grocery checkout line, I saw a five-year-old climb up inside a frozen food case to reach a treat on the top shelf, near the ceiling. The mother, a well-dressed, obviously well-educated woman, had tried to coax the girl gently back to the checkout line, but when the child climbed up inside the case, the mother said nothing, and paid for the treat without comment. A child who can ignore requests or commands without consequences, who takes what she likes and does what she pleases, is not going to adapt very well to school, and Mr. Starbuck is not attractive enough to offset the unpleasant-

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ness of submitting to authority all day long.

But the real problem with Mr. Starbuck lies in his reason for being. Although he exists to build "responsibility skills," he is a symbol of the way we adults shun our responsibility to teach our children, and his white flag is the flag of surrender. He exists because we are afraid to tell very small children that we know what is best for them. We refuse to tap into the natural respect children have for big people who act like adults. We hide behind a blue blob, manipulating small children by using their ability to endow their toys with life, encouraging the children to be responsible in order to please Mr. Starbuck. A local Sunday School teacher asked her very young students, "Who sees everything that you do?" "Mr. Starbuck," the children replied.

The well-meaning teachers who promote this program in our school have stepped, however gently, over a line. They have become, in a very small way, the conditioners described by C. S. Lewis in *The Abolition of Man*, attempting to bypass both the mind and the will of the child in order to make him responsible. And, of course, it will not work. Behind the "responsibility skills" lies the need for self-discipline, and learning to discipline the self is painful.

This is a truth our society chooses to ignore. Everything from aspartame to Willow Creek testifies to our desire to avoid the discomfort of self-discipline. Considering how we spend thousands of dollars trying to lose weight without diet or exercise and how we try to depict church as an amusing place of high quality, meaningful entertainment so the audience won't be too upset by Christ's demand that the self be killed, it is not surprising that we would also try to cajole children into self-discipline by making it somehow "fun."

But countering "I don't feel like doing that" with a program that coaxes the child into "feeling like doing that" ignores the truth that for self-discipline, the will must not be the slave of the emotions. If Mr. Starbuck fails, the children will not learn responsibility, and if he succeeds, they will be no better off, for as soon as they outgrow him (about third grade it seems), they will cease to be responsible.

"We laugh at honor," wrote C. S. Lewis, "and are shocked to find traitors in our midst." Our society laughs at responsibility through divorce, abortion, and a never-ending stream of media messages glorifying the immediate gratification of every bodily desire, and our children laugh right along with us. Until we stop laughing, we cannot expect our children to do any better, and we will not be able to cure the evil by refusing to be the responsible and virtuous adults our children need to admire and imitate, offering them instead the imitation of Mr. Starbuck.

Nancy Harvey *teaches French at Cuba High School in Cuba, Missouri.*

# The Nullification Machine

*Bradley S. Clanton*

This May, a federal judge in Wisconsin created hysteria in the pro-abortion movement by refusing to grant a temporary injunction prohibiting the enforcement of the state's partial-birth abortion ban while a lawsuit challenging the ban is pending. Abortion providers across the state, in what pro-life groups characterized as a "public relations ploy" to challenge the law, stopped performing all abortions, claiming that the law was "so vague" that it could be construed as prohibiting "virtually any surgical abortion." Pro-abortion groups criticized the decision for "creating chaos" for women seeking abortions in the state. Rep. Nita Lowey (D-N.Y.) cited Wisconsin as "a preview of what will happen everywhere if the President's veto of the partial-birth ban gets overriden."

This staged hysteria was unnecessary, of course, as the Wisconsin law will almost certainly be declared unconstitutional in any event, the judge having stated in his order that the plaintiffs had demonstrated a "likelihood" of success in their challenge to the law. What the frenzy demonstrates, however, is the extent to which the pro-abortion movement has come to expect (and usually receive) favorable decisions from federal courts which, in the words of Justice Antonin Scalia, act as an "ad hoc nullification machine," striking down even the most sensible and perfectly constitutional state abortion restrictions.

The recent decision by the United States Court of Appeals for the Sixth Circuit, *Voinovich v. Women's Medical Professional Corp.*, striking down Ohio's partial-birth abortion ban, is a good example of what abortion providers and pro-abortion groups like those in Wisconsin now expect from the federal judiciary. Indeed, the court of appeals' decision is a textbook example of just how far activist federal judges are willing to reach in order to strike down state abortion restrictions. The Supreme Court refused to review the decision (with Chief Justice William Rehnquist and Justices Scalia and Clarence Thomas dissenting), giving unmerited legitimacy to the absurd legal arguments in the appeals court opinion.

The Ohio law banned the use of the "dilation and extraction" abortion procedure, also known as "D & X" or "partial-birth abortion." The proscribed procedure was defined as "the termination of a human pregnancy by purposely inserting a suction device into the skull of a fetus to remove the brain."

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The bill also restricted late-term abortions. First, all post-viability abortions were prohibited except where a physician determined, "in good faith and in the exercise of reasonable medical judgment," that the abortion was necessary to prevent the death of the mother or to prevent a serious risk of the substantial and irreversible impairment of a major bodily function. A fetus was rebuttably presumed to be viable at twenty-four weeks. Second, before any abortion could be performed after the twenty-second week of pregnancy, a physician was required to test to insure, "in good faith and in the exercise of reasonable medical judgment," that the fetus was not viable. The viability test was not required, however, if a "medical emergency" existed. A medical emergency was defined as a condition requiring an abortion to prevent the death of the mother or to prevent a serious risk of the substantial and irreversible impairment of a major bodily function.

Just over two weeks before the bill was to go into effect, an abortion provider in Ohio filed suit in federal district court seeking a declaration that the statute was "unconstitutionally vague" and placed an "undue burden" on the rights of pregnant women to have abortions. The district court struck down the law, and Ohio appealed the decision to the court of appeals.

The court of appeals began its decision by giving the bill an unreasonably broad construction, guaranteeing that the court would find it "vague" and "unduly burdensome." Despite the fact that the partial-birth abortion ban expressly proscribed only the "dilation and extraction" method of abortion, the court held that the statute could be construed as prohibiting another, more commonly used abortion procedure known as "dilation and evacuation." In order to demonstrate how it reached this counterintuitive conclusion, the court stated that it would be "useful to summarize how and when the three procedures implicated by the Act are performed." These summaries are disturbing enough to shock even the most ardent of abortion supporters.

During the first trimester, the court wrote, the most commonly used abortion procedure is the "suction curettage" or "suction aspiration" method. During this procedure, which is sometimes used up to the fifteenth week of a pregnancy, "the physician mechanically dilates the pregnant woman's cervix by means of metal rods, inserts a vacuum apparatus into the uterus, and removes the fetal matter by means of negative suction."

During the second trimester, the most commonly used abortion procedure is the "dilation and evacuation" procedure, or "D & E." This procedure is used, the court explained, when a suction procedure is no longer feasible "because the fetus is too large to remove by use of suction only." During the D & E procedure, the woman's cervix is dilated and a larger suction curette is placed into the uterus. "With the suction curette," the court continued, "the physician can remove some or all of the fetal tissue. However, the torso and the head of the fetus often cannot be removed using the suction curette." As a result, the court stated,

> the D & E procedure typically entails dismembering the fetus, beginning with the extremities, by means of suction curettage and forceps. The most difficult part of the D & E procedure is the removal of the fetal head from the woman's uterus, because it is often too large to fit through the partially dilated cervix. Physicians have developed different methods of removing the head. The evidence shows that some physicians compress the head by using suction to remove the intracranial contents.

The court next described the D & X procedure, which was expressly prohibited by the Ohio law. During the first two days of this three-day procedure, the physician dilates the woman's cervix. On the third day, the dilators are removed and the membranes are ruptured. "Then," the court wrote,

> with the guidance of ultrasound, the physician inserts forceps into the uterus, grasps a lower extremity of the fetus, and pulls the extremity into the vagina. The physician then uses his fingers to deliver the other lower extremity, followed by the torso, the shoulders, and the upper extremities. The head, which is too big to pass through the dilated cervix, remains in the internal cervical opening. At this point, while lifting the cervix and applying traction to the shoulders with his or her fingers, the physician takes a pair of blunt curved Metzenbaum scissors and forces the scissors into the base of the skull. Once the scissors has entered the skull, the physician spreads them to enlarge the opening. Finally, the physician removes the scissors, inserts a suction catheter into the hole, and removes the skull contents. The head will then compress, enabling the physician to remove the fetus completely from the woman.

From these summaries, the court concluded that House Bill 135 might be construed to prohibit not only the D & X procedure, but also the D & E procedure, "because the D & E procedure can also entail suctioning the skull contents of the fetus." In other words, despite the fact that the text of the bill proscribed only the D & X procedure, the court of appeals concluded that the ban extended to the D & E procedure.

By construing the bill to prohibit D & E abortions, the most commonly used pre-viability abortion procedure during the second trimester, the court of appeals ensured that it could not survive constitutional scruti-

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ny under the Supreme Court's 1993 decision in *Planned Parenthood of Southeastern Pennsylvania v. Casey*. In *Casey*, the Court held that pre-viability abortion restrictions are unconstitutional if they place an "undue burden" on a woman seeking an abortion, and a restriction constitutes an undue burden if it places a "substantial obstacle in the path of a woman" seeking to abort a nonviable fetus. "Because the definition of the banned procedure includes the D & E procedure," the court of appeals held, "the Act's prohibition on the D & X procedure has the effect of placing a substantial obstacle in the path of a woman seeking an abortion of a nonviable fetus."

The court of appeals then turned to the bill's post-viability restrictions. According to the Supreme Court's decision in *Casey*, a state's interest in protecting fetal life becomes paramount when the fetus is viable. At that point, a state may regulate or even prohibit abortions except "where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother." Because the bill's post-viability restrictions clearly met these standards, the court had to look for another reason to strike them down.

The court found a reason in the fact that the bill's maternal health and medical necessity exceptions did not contain a "scienter" requirement, a legal term that indicates the defendant acted with guilty intent. The Ohio law required physicians to make good faith and objectively reasonable determinations that a post-viability abortion was necessary to protect the mother's health or that a medical necessity prevented them from testing to see whether the fetus was viable. No guilty intent on the part of the physician was necessary; the failure to make good faith and objectively reasonable determinations could have subjected the physician to civil and criminal liability. Without an intent requirement, the court concluded, the bill was "unconstitutionally vague."

There are two significant problems with this conclusion. First, the Supreme Court has *never* held that guilty intent is constitutionally required in order for a state to hold an individual civilly or criminally liable for his actions. In fact, there are numerous laws which impose criminal and civil liability without regard to the intent of the defendant. For example, physicians and other health care workers are routinely held civilly liable for medical malpractice even when they acted with good faith. Criminal liability is also imposed without a scienter requirement for offenses such as statutory rape, bigamy, and carrying concealed weapons. Second, the bill was not vague at all. As Justice Thomas stated in dissenting from the Supreme Court's decision not to review the case, the bill "plainly imposes both a subjective and an objective mental requirement, and thus its commands are clear."

Because the validity of the Ohio law depended on the constitutionality of these exception provisions, the court of appeals declared the entire bill unconstitutional. However, the court of appeals gratuitously offered its opinion regarding the bill's lack of an exception to protect the "mental health" of the mother. This, of course, was President Clinton's asserted justification for twice-vetoing federal legislation banning partial birth abortions.

The maternal health and medical necessity exceptions, which protected against physical health risks only, were included in the bill by the Ohio legislature in order to comply with the Supreme Court's holding in *Casey* that post-viability abortions may be regulated or prohibited "except where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother." The *Casey* Court upheld a similar provision that applied only to physical health risks, and the Ohio General Assembly went so far as to state in House Bill 135 that "it is the intent of the General Assembly that the phrase be construed according to the interpretation given to that phrase" in *Casey*. Undeterred by Ohio's apparent compliance with *Casey*, the plaintiffs argued that the exceptions were unconstitutional because they did not apply when an abortion was needed to protect the "mental health" of the mother.

The court of appeals conceded that the provision upheld in *Casey* applied only when necessary to protect the mother's physical health. However, the court ignored that fact and struck down the provisions anyway, concluding that the Supreme Court "will hold, despite its decision in *Casey*, that a woman has the right to obtain a post-viability abortion if carrying a fetus to term would cause severe non-temporary mental and emotional harm." In other words, despite the fact that the Supreme Court upheld a provision in *Casey* that did not include a mental health exception, and despite the fact that the Supreme Court has *never* held that a mental health exception is necessary, the court of appeals held that such an exception is mandated by the Constitution. To paraphrase a quip often attributed to Justice Scalia, it must have been the *new* Constitution they were applying, rather than the *old* one.

Dissenting from the court of appeals' decision, Circuit Judge Danny Boggs compared the recent judicial regulation of abortion to the trick Lucy perennially plays on Charlie Brown in the comic strip "Peanuts." Lucy pulls the football away just as Charlie Brown attempts to kick it, and Charlie Brown lands flat on his back. Lucy then reassures Charlie Brown that he can in fact kick the ball, and he keeps trying, but she always pulls it away at the last instant. "Here," Judge Boggs wrote, "our court's judgment is that Ohio's legislators, like poor Charlie Brown, have fallen flat on their backs. I doubt the lawyers and litigants will ever stop this game. Perhaps the Supreme Court will do so."

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Well, the Supreme Court has chosen not to stop the game. Instead, as Justice Thomas stated in dissent, the Court has created "unnecessary doubt" regarding the constitutionality of similar provisions enacted in other states, including Wisconsin. As a result, activist judges will continue to strike down perfectly sensible and constitutionally permissible restrictions on late-term abortions for the absurd reasons offered by the court of appeals. Democratic self-government will continue to be thwarted, and viable infants will continue to be killed by barbaric abortion procedures.

That is, unless Congress is able to muster enough votes to override President Clinton's second veto of the federal partial-birth abortion ban. For those in Congress who remain unconvinced of the merits of the ban, the court of appeals' opinion in *Voinovich v. Women's Medical Professional Corp.* is highly recommended reading. And if the courts then strike down that legislation as unconstitutional, the Constitution, as rewritten by federal judges, must be changed.

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# "Why Go to Mass?"

*Amy Welborn*

It wasn't in my contract, but I really think it should have been.

Because I spend a good part of my day as a theology teacher in a Catholic high school answering one question, endlessly, day after day, year after year: Why go to Mass?

They could at least have warned me. All it would have taken was one little clause: "Employee agrees to dedicate from one-half to three-quarters of her teaching time discussing why sitting in one's room and thinking vague thoughts about God while watching a tape of *Dawson's Creek* is not an adequate alternative for attending Mass."

And I don't mind, really I don't. After eight years of doing this and now dealing with two teenagers living under my very own roof who ask the same question, I've got the answers down pat and can dismiss my students at the bell confident that they have at least a hazy sense that maybe going to church next Sunday wouldn't be a complete waste of their time.

I only wish the Church could give me a little help here. For no matter how hard I try, however eloquent, dynamic, or (at desperate moments) guilt-inducing I may be on Friday afternoon, on Monday morning my arguments have fallen flat and sunk into the muck, idealistic words overwhelmed by a depressingly powerful reality: Sunday Mass at the parish.

There are, I understand from what I read in cheery features in the Catholic press, parishes that are "alive" and "vibrant," mythic places where the pews are spilling over with youthful joyous faces of the Future of the Church. I'm beginning to wonder if they're not just making it all up. Because by the time my Catholic high school students in my little part of the world reach me as seniors, if I take a poll on any given Monday, out of a class of twenty, perhaps five have attended Mass the previous weekend.

There are a lot of reasons, much studied by the "experts" in pastoral ministry. Adolescents are marginalized in parishes. Catholic churches don't put enough resources into youth ministry. Homilies are over their heads. The poor babies feel (gulp) left out. They're rebelling. They're busy.

There is something to all of that. But underlying teenagers' complaints about how they "don't get anything out of going to Mass" is the same experience that drives adults away in droves—including many friends of mine, most of whom have gone through periods of being very "active" in faith, but now, well out of that emotional, post-conversion, post-Cursillo or whatever high, find themselves barely able to drag themselves to church on Sunday.

The Latin Rite Roman Catholic liturgy as it is offered in most American parishes at the end of the twentieth century is so stunningly, astonishingly trivialized that it is indeed, taken on the surface, a stultifying, uninspiring, and even faith-sapping experience.

This was Easter Sunday Mass at my parish this year. The setting is a beautiful new church—barely a year old. The environment is spare, but flawless. There's no excuse for anything less than a prayerful, joyous liturgy here, even if it is 7:30 in the morning. The church is packed with the usual Easter crowds along with the normal padding of snowbirds who've been here in Florida since after Thanksgiving and will fly back up to Michigan and New Jersey next week.

I have no doubt that even those of us who've come out of no more than a sense of obligation and fulfillment of the Easter Duty have brought hearts open and ready to be touched by God. We've come with our joys. We carry new babies and stand with people we love. We're filled with gratitude for health and love and life itself. We've carried our sorrows with us here as well. We are alone because of divorce and death. We grieve for children on self-destructive paths. We struggle with alcohol or live with those who do. We watch our own health slip away and death approach. With Jesus, we have confronted death, and we are wondering, hoping—is there resurrection for us too, beyond our sorrows, beyond this darkness?

And we are ready to have someone point to what is in our midst and say, There it is, the peace you yearn

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for: everlasting Love given to you in what looks to be but mere bread and wine—gift, pure gift, questions answered, wounds healed, loneliness vanished, and death of every sort conquered.

But what is it we hear on this day?

A priest stands up to preach. He reminds us that it is Easter. That Jesus died for our sins and rose from the dead. He asks us if we believe in Jesus. Yes, the congregation answers wanly. He asks if we accept him as our personal savior. Yes, we respond a bit more strongly. Do you love him? Yes, again. I wonder if at any moment Tinkerbell is going to rise, revived and twinkling from behind his robes.

It being Easter, we're now ready to renew our baptismal vows. At the end, the priest thrusts the missalette he has been using as his reference in leading us in the vows high in the air. "This is our faith," he says, waving the missalette like he's bidding at an auction. I am struck by the symbolic power of the book in his hands—it is red and flimsy and flops weakly in his grasp. *This is our faith . . . we are proud to profess it.*

Mass continues. We are in the liturgy of the Eucharist now, which doesn't have much room for improvisation—and therefore, damage—so we are blessed.

Up until the Communion meditation song, of course. The cantor—a middle-aged man with a pleasant voice—has centuries of Catholic musical heritage to select from for this celebration, including some very good contemporary compositions of depth and beauty. His choice, warbled along with an organ accompaniment, is nothing else but one of the classic 1970s youth group/holding hands/end of retreat monstrosities called "Pass it On":

> It only takes a spark to get a fire going
> That's how it is with God's love
> Once you've experienced it
> You want to pass it on. . . .

At the end of Mass, the priest does a very odd thing. He asks us to stand and raise our right arms in a gesture of blessing—a practice that's become increasingly popular in Catholic churches and is distressing not only because of its questionable theology, but also because the net effect of the sight of a thousand people, right arms stretched forward seems unsettlingly . . . well, fascist, to put it bluntly.

Father then—and please remember this is Easter Sunday—plants himself in front of the altar and says, "I would like you to bless me. Please pray silently as I speak. Jesus, I love you. I recommit myself to your service. I believe you are my savior. I love you."

*Go in Peace.*

No wonder my students don't want to go to Mass. Sometimes I don't either.

This year, I have begun taking my students to a Benedictine monastery about thirty miles away for their days of recollection. It's not a big monastery, and it is, in comparison to say, Gethsemani, rather informal.

But we take our vans up there, I preach at the kids, give them some activities, preach some more, let them "discuss," and then take them to noontime Mass in the monastery chapel. It is by far the most memorable part of the day for them. This is not any high liturgy we're talking about here. It's in a beautiful little stone church, the monks straggle in as the bells ring and there's not a lot of chant, but when they do sing, their voices are clear and strong and unwavering.

After lunch, we gather before we leave to talk about the liturgy. Almost all of them say they like what they've experienced much more than Sunday Mass at their parish. "There's not all that other stuff going on." "You could pray better." "The music was cool." And, unbelievably, on the last retreat a month ago, an eighth grader came out with this one: "In church on Sunday, it's like it's all about us or something. This was about God."

What's happened, of course, is that over the past thirty years the central purpose of Catholic worship—the Eucharist—has been all but lost in a sea of concerns about community building, lay ministry, liturgical language, battles over music and statues, and yet more community building.

The Eucharist is what my students experience at the monastery. I love going to monasteries because, even though the monks are friendly, they really don't care whether you're there or not. There's no need to welcome you and make you feel at home and involve you because that's not what they're there for, and they're assuming you're not either, so they treat you as a mature adult who doesn't need to be manipulated and cajoled into a religious experience. And these Vatican II grandbabies are yearning for just such a Mass, even though they can't articulate it. My seniors were born in 1980; in their lifetimes church has been about everything else in the world except Eucharist.

My students don't want to go to Mass because they don't, indeed, get "anything out of it" in the way they've been taught to expect. They have been taught—by words, and more importantly by silence—that religion is basically an emotional response, either to good music, effective preaching, or a feeling of belonging to a community. The problem is, they can find all those things elsewhere—better music, preaching, and youth groups in the Protestant churches, better community with a group of friends they've freely chosen. Further, even when they come, we throw trivialities and distractions at them and everyone else.

This is, by the way, not about Latin, the Tridentine liturgy, statues, or which way the priest faces. Before the reforms of Vatican II, Flannery O'Connor wrote of a man she knew who had converted to Catholicism because, he came to believe, Jesus must really be present in the Eucharist—otherwise, since the Catholic

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liturgy was regularly so dreadfully and mechanically done, no one would keep coming.

The problem, as Thomas Day wrote in *Why Catholics Can't Sing*, is more about ego than anything else. The liturgical reforms, as they evolved in our country, had the effect of putting ourselves—the presider, as well as the congregation—at the center of liturgy, pushing God enthusiastically out of the way. I'm here to testify that it didn't work.

When I first started hearing that question—"Why go to Mass?"—I understood it as nothing more than argumentative teenagers looking for a fight. But now, after years of teaching, reading spiritual journals, and listening to their very real struggles to find God, I hear the question much differently. I've come to see that these kids are like all of us. They're asking because they want me to give them a reason to go—they know there must be, but it's just not evident to them in their experience of parish liturgy.

Those Vatican II grandbabies are desperately hungry. The tragic thing is, the nourishment they need is right in front of them, but those of us with the power to share it with them are too busy feeding them trifles of our own creation to be of any help. It's junk food that looks attractive for a moment, entertains and satisfies the egos of those in charge, but has left an entire generation empty, groping, and vulnerable.

The feast is there, but we're blocking their view of the table with our own arrogant presence, demanding that they bless us and our own shabby efforts rather than trusting in the simple, profound gift God has already given to do the work of grace in the joys and sorrows of our children's lives.

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# Theories of Everything

*Peter J. Leithart*

Over the years, through the diligent encouragement of friends, I have acquired something of a taste for science fiction. Admittedly, I am still lost much of the time, bewildered by a world of gadgets and gizmos, (sometimes literally) angular characters, and events that defy normal canons of cause and effect. It's a world that most of the time has little connection with the events and people I prefer to read about in Jane Austen, Graham Greene, and Iris Murdoch.

Yet this newly found appreciation for science fiction was, I think, one of the reasons I decided to read Lee Smolin's recent *The Life of the Cosmos*. According to a London *Times* review, Smolin's book develops his Darwinian/Einsteinian theory of cosmic natural selection in which generations of living universes are linked to one another by black holes, and that sounded like a book that could provide a smooth passage from science fiction to the real thing. I was tempted to charge the publishers and reviewer with false advertising when I discovered, after reading several chapters, that I was reading neither fiction nor science. Instead, I found myself back on home territory. I had picked up a book of theology.

And, considering that Smolin's intellectual heroes are hardly the same as mine, it is interesting and provocative theology. To my surprise, I resonated with some of his beginning moves: his advocacy of a "relational" model of the universe, his claim that complexity is irreducible and necessary, his insistence that structure is as fundamental as matter, his belief that the laws of the universe are "made" and develop rather than being eternal (so that the laws are narratable, story-like), and his criticism that Newtonian physics assumes that the scientist (like the Cartesian philosopher) observes from a stance in "midair," outside the universe he describes.

There are some strange lapses. Smolin says that "if the universe is eternal" then one possible explanation of its existence is that "God . . . made the laws of nature as he made the world" and that these laws thus reflect eternal principles in God. Come again? If the universe is eternal, then how could God have made it? Both Platonism and Deism posit a world "constructed" by an eternal something, but the fact that it's constructed means that it's not eternal, at least in the organized form we know it. Elsewhere, Smolin seems to suggest that the discovery of the youth of the universe comes as a challenge to traditional theology. Can he say "Archbishop Ussher"?

Some of the problems with Smolin's book are more fundamental, but, strangely, I most strongly disagreed with him when I felt he was not pushing his initial insights with rigorous consistency. Smolin criticizes the "nostalgia for the absolute Newtonian universe" as "the desire to be able to see the universe from outside, as a disembodied observer." I like that, but in my judgment Smolin's vision is dimmed by the same mote.

It's the old Kantian dilemma, as pointed out by Wittgenstein: how can Kant know the limits of pure reason without seeing beyond those limits? Kant must be standing in the borderland between the knowable and unknowable to know where the border is, but if that's the case, then the limits of pure reason turn out not to be absolute limits after all. Smolin, similarly, wants to present a theory of the universe, but how can he know what the universe is, where its "boundaries" are, without somehow standing beyond the boundary? The "theorist of the whole" must

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assume either that he's peeking over God's shoulder or that God has confided some of His secrets, to the scientist if no one else. Every "theory of the whole universe" is necessarily theological, and even approaches some kind of doctrine of "revelation."

Physicists have as much right to express theological conclusions as anyone, of course. The issue is, what kind of theology is Smolin constructing? We get a hint from his early citation of an idea he attributes to Leibniz: that properties of things are not absolutely fixed but "arise from the interactions and relationships among the things of the world." That is a marvelous and fruitful insight. The "real me" is not some kernel of fixed essence buried beneath a thick crust of roles and relationships; on the contrary, those roles, relationships, and experiences contribute to the formation of my identity. Even my self-image is, to some degree, projected from others. Paul's doctrine of justification implies that how I "judge myself" should conform, in faith, to Another's gracious judgment of me. Inanimate objects too are what they are by interactions with other things and with human beings. When I carve a bowl out of a block of wood, it changes "ontologically," becoming something other than what it was before. It is not a block of wood cleverly disguised as a bowl: it *is* a bowl.

So far, so good. But when Smolin moves to a cosmic level he says that the universe is in "relationship only to itself." You can hear the gears grinding. If things have their characteristics because of their relationships, and the universe is in relation to nothing and no one, then it seems that the universe as a whole must be featureless. (Unless Smolin dodges the issue by saying that the universe is not a "thing.") If the universe as a whole is featureless, how can Smolin arrive at a theory of everything that does not end in a blank nirvana? Besides, where do the features of individual things come from? If the universe is not itself in relation, and if, in Smolin's view, the universe is all there is, then where, philosophically speaking, does relationship come from? At the macro-macro level, complexity, which Smolin has told us is irreducible and necessary, is swallowed up in simplicity of cosmic solipsism, of monologue, or better, of silence. But then whence the dialogue, the harmony, that Smolin can't help but hear all around him?

A relational universe requires a relational cosmology. If things are what they are in relation, then it follows that the universe is what it is in relation to something other than itself. And if this something is the source of a relational universe, then it must be inherently relational. A relational cosmology demands a relational theology; that is to say, it requires a Trinitarian theology, which can serve as the ground of the relational conception of the universe to which Smolin's science leads him. When I carve that block of wood into a bowl, I am not merely imaging and extending the original creative act; I am also echoing the Father's eternal generation of the Word, who is the Son, Image, and "Art" of God. Smolin is a prophet of the *vestigia Trinitatis*, the "traces of the Trinity" that Augustine said are woven into the fabric of created, especially human, forms of existence.

So, to physicists everywhere, I offer this counsel: Your search for a "theory of everything" is centuries behind the times. The theory already exists, and you may already know it. If not, you can find it in any prayer book or hear it recited in countless languages each Sunday morning: "I believe in one God, the Father Almighty, Maker of heaven and earth . . . and in one Lord Jesus Christ, the only-begotten Son of God . . . and in the Holy Ghost, the Lord and Giver of Life."

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# The Everyday C. S. Lewis

***Gilbert Meilaender***

"One is sometimes (not often) glad not to be a great theologian. One might so easily confuse it with being a good Christian." Thus C. S. Lewis wrote in *Reflections on the Psalms*. Similarly, Lewis' religious writings are full of asides to the effect that he is not a theologian and that what he says is subject to correction by real theologians. In part, of course, let us recognize this for what it is: a smart rhetorical strategy that gets the reader on his side over against the presumably elitist theologians. But there is a worrisome sense in which Lewis' readers might be all too ready to hear such a message, all too ready to suppose that the faith is simple and clear, that theologians are largely in the business of making complicated what ought not be.

That is a temptation whose seductions we should resist. And indeed, in writing of "the everyday C. S. Lewis," I am not suggesting that Lewis' reflection is done at an everyday or unsophisticated level, but, rather, that he reflects religiously upon what is ordinary and everyday. Indeed, to the degree that Lewis is often characterized as a "popular" religious thinker, I am inclined to think the characterization misleading, and in part, I fear, a result of a peculiar academic prejudice against anyone who writes clearly and is widely read. Lewis' readers actually get a rather heavy dose of serious religious reflection, though generally in quite alluring literary style.

Nevertheless, theology is and must remain an elite activity. It is not, in fact, aimed at the masses. And there is a sense in which we might better say that Lewis' writing is "religious" rather than "theological." This sense is one that he would himself, I believe, affirm. He makes such a distinction, for example, in the incomplete, posthumously published essay "The Language of Religion." There he develops a distinction between ordinary language ("It was very cold") and two other kinds of language, each of which transforms ordinary language in the interest of certain purposes. Scientific language ("The temperature was -5 degrees Fahrenheit") seeks language that has a certain kind of precision lacking in our ordinary speech—a precision that we can quantify and test, that can be used to settle disputes about how cold it actually is. But this scientific language does not itself give us any sense of how a very cold day "feels," a sense of its "quality." If I have spent my entire life in a tropical climate, and you tell me that it is -5 degrees Fahrenheit where you live, such language will not help me feel what it's like to be there.

Ordinary language might do a little better in communicating this "feel." "Your ears will tingle." "It will hurt just to breathe." But poetic language exists in large part to try to improve ordinary language on just this point: to convey the quality, the feel, of experience. Lewis uses Keats' poem as illustration: "Ah, bitter chill it was! The owl, for all his feathers, was a-cold; The hare limped trembling through the frozen grass, And silent was the flock in wooly fold: Numb'd were the Beadsman's fingers." This language cannot be quantified or tested, but it may, Lewis suggests, convey information that can be given in no other way. Perhaps it may even convey the quality of experiences we ourselves have never had.

Religious talk, like all talk, begins with ordinary language, but, depending on our purposes, it may quickly turn in directions more like the scientific or the poetic. Theological language, as Lewis describes it, is, strictly speaking, an alteration rather like the scientific. It seeks a precision that is needed and useful for clarifying uncertain or disputed points and for settling disagreements. As such, it is absolutely

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necessary. Elitist in a certain sense, it is, nonetheless, not to be belittled. Indeed, its precision can be a thing of beauty. But one thing it cannot do: it cannot by itself convey understanding of what in its very nature transcends our ordinary experience. For that we need language that is religious but not, in this sense, theological—language more like the poetic. To say "God is the Father of lights" is such language—religious, though not exactly theological.

A good bit of Lewis' success can, I think, be attributed to the fact that he actually writes relatively little "theology" in this technical sense. Clearly, he's read a good bit of it and been instructed by it—he does not in any sense belittle it—but he tends to seek language that captures and communicates the quality, the feel, of living and thinking as a Christian. As Austin Farrer put it: "[Lewis'] real power was not proof; it was depiction. There lived in his writings a Christian universe that could be both thought and felt, in which he was at home and in which he made his reader feel at home." That is the universe I want to explore. It illumines the everyday, so that we may find in it shafts of the divine glory that point to God, so that we may sense the eternal significance of ordinary life.

## I

In his famous and powerful work *Fear and Trembling*, Søren Kierkegaard describes the "knight of faith" who has made the double movement of infinite resignation and of faith. Having given up the sense that anything is his possession to claim, having surrendered all for the sake of an immediate relation to God, the knight of faith nevertheless trusts that God will give it back—not in some future life, but in the here and now, in the finite realm. And, as a result, although he has made the first movement of infinite resignation, he is also able to savor the everyday. Kierkegaard describes him this way:

> Here he is. The acquaintance is struck, I am introduced. The moment I first set eyes on him I thrust him away, jump back, clasp my hands together and say half aloud: "Good God! Is this the person, is it really him? He looks just like a tax-gatherer." . . . I examine him from top to toe, in case there should be some crack through which the infinite peeped out. No! He is solid through and through. . . . One detects nothing of the strangeness and superiority that mark the knight of the infinite. This man takes pleasure, takes part, in everything, and whenever one catches him occupied with something his engagement has the persistence of the worldly person whose soul is wrapped up in such things. . . . He delights in everything he sees. . . .

The knight of faith is therefore, as Kierkegaard puts it, able "to express the sublime in the pedestrian absolutely."

That characterization—to express the sublime in the pedestrian—is an apt description of something that makes Lewis' religious writing so effective. "[O]nly supernaturalists really see Nature," Lewis says.

> You must go a little away from her, and then turn round, and look back. Then at last the true landscape will become visible. . . . Come out, look back, and then you will see . . . this astonishing cataract of bears, babies, and bananas: this immoderate deluge of atoms, orchids, oranges, cancers, canaries, fleas, gases, tornadoes, and toads. How could you have ever thought this was the ultimate reality? . . . She is herself. Offer her neither worship nor contempt.

The ordinary pleasures of life—both those simply given to us in nature and those derived from culture—play a large role in Lewis' thinking and account for much of the power of his writing.

He can make domesticity seem enticing—as when Peter, Susan, and Lucy share a meal with the Beavers. And, indeed, the best times in Narnia are not the times we read of in the stories, the times when momentous events are occurring. The good times are those when nothing "important" happens, when life goes on in its ordinary, everyday way. Similarly, Lewis finds—surely not by accident—that "cheerful moderation" is an important characteristic in the novels of Jane Austen. "She has, or at least all her favorite characters have, a hearty relish for what would now be regarded as very modest pleasures. A ball, a dinner party, books, conversation, a drive to see a great house ten miles away. . . ." He celebrates the appreciation of "middle things" that he finds in the writings of Joseph Addison. Granting that Addison does not stir one's soul as some writers do, Lewis nonetheless finds a kind of strength and goodness in Addison's affirmation of "the common ground of daily life." "If I were to live in a man's house for a whole twelve-month, I think I should be more curious about the quality of his small beer than about that of his wine; more curious about his bread and butter and beef than about either."

And few readers of *Surprised by Joy* are likely to forget Lewis' description of what was for him a "normal day" during the time he was living with and being tutored by Kirkpatrick.

> [I]f I could please myself I would always live as I lived there. I would choose always to breakfast at exactly eight and to be at my desk by nine, there to read or write till one. If a good cup of tea or coffee could be brought me about eleven, so much the better. A step or so out of doors for a pint of beer would not do quite so well; for a man does not want to drink alone and if you meet a friend in the taproom the break is likely

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> to be extended beyond its ten minutes. At one precisely lunch should be on the table; and by two at the latest I would be on the road. Not, except at rare intervals, with a friend. Walking and talking are two very great pleasures, but it is a mistake to combine them. Our own noise blots out the sounds and silences of the outdoor world; and talking leads almost inevitably to smoking, and then farewell to nature as far as one of our senses is concerned. . . . The return from the walk, and the arrival of tea, should be exactly coincident, and not later than a quarter past four. Tea should be taken in solitude, . . . [f]or eating and reading are two pleasures that combine admirably. Of course not all books are suitable for mealtime reading. It would be a kind of blasphemy to read poetry at table. What one wants is a gossipy, formless book which can be opened anywhere. . . . At five a man should be at work again, and at it till seven. Then, at the evening meal and after, comes the time for talk, or, failing that, for lighter reading; and unless you are making a night of it with your cronies . . . there is no reason why you should ever be in bed later than eleven.

Such a life Lewis himself describes as "almost entirely selfish" but certainly not "self-centered." "[F]or in such a life my mind would be directed toward a thousand things, not one of which is myself." Lewis, of course, understands that an "almost entirely selfish" approach to life cannot really be recommended. He simply understands its attraction, and he sees that it may, in fact, be better in some respects than a life which seems less selfish.

> One of the happiest men and most pleasing companions I have ever known was intensely selfish. On the other hand I have known people capable of real sacrifice whose lives were nevertheless a misery to themselves and to others, because self-concern and self-pity filled all their thoughts. Either condition will destroy the soul in the end. But till the end give me the man who takes the best of everything (even at my expense) and then talks of other things, rather than the man who serves me and talks of himself, and whose very kindnesses are a continual reproach, a continual demand for pity, gratitude, and admiration.

In an epitaph he once composed, Lewis made the same point a little more playfully:

> Erected by her sorrowing brothers
> In memory of Martha Clay.
> Here lies one who lived for others;
> Now she has peace. And so have they.

Thus, Lewis has a keen delight in the ordinary and the everyday. But I think this appreciation for the everyday goes yet a little further than simple delight—which, taken by itself after all, might be chiefly a matter of temperament. The deeper point is that the ordinary is the stuff of most of our lives most of the time. It is, therefore, where we most often find our callings, our opportunities for faithfulness, and our temptations.

Something like that is the point of Lewis' sermon "Learning in War-Time," a sermon preached in the Church of St. Mary the Virgin on the evening of Sunday, October 22, 1939—when people in England had a genuine crisis, very much out of the ordinary, on their hands. Even such a moment of crisis does not, Lewis suggests, alter the fundamental situation in which we always find ourselves. For every moment of life is lived in the presence of the Eternal, in every moment of life we are "advancing either to Heaven or to Hell," and those high stakes are played out in the most mundane of decisions.

Lewis' ability to see that, and help us to see it, is part of the enduring power of *The Screwtape Letters.* Screwtape knows how much the ordinary and the everyday count for in our spiritual life. He knows, for example, of a human being who was once "defended from strong temptations to social ambition by a still stronger taste for tripe and onions." He knows that Wormwood has blundered badly when he permits his "patient" to read a book simply because he enjoys it, or to take a walk through country he enjoys. He knows that, when it comes to separating a human being from God, the ordinary can also be Wormwood's greatest ally. The important choices in life seldom present themselves in extraordinary appearance. "It does not matter how small the sins are, provided that their cumulative effect is to edge the man away from the Light and out into the Nothing. Murder is no better than cards if cards can do the trick. Indeed, the safest road to Hell is the gradual one—the gentle slope, soft underfoot, without sudden turnings, without milestones, without signposts."

This sense that eternal issues are at stake in the mundane choices of our everyday life helps, I think, to account for the fact that, in this country, Lewis has been so popular among evangelical Protestants. An analysis of the theological structure of his religious writings would, I am convinced, show clearly that this structure is more adequately described (to paint in broad strokes) as "Catholic" than as "Protestant." Faith as trust does not play a large role in his depiction of the Christian life. That life is not conceived primarily as a turn from consciousness of sin to the proclamation of grace. Instead, it is conceived as a journey, a process of perfection, and Jesus is the way toward that goal. From start to finish this journey is, to be sure, the work of grace, but that grace is primarily the power to finish the journey, not simply a pardoning word of forgiveness. The end of this journey

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is the beatific vision—to see God and to rest in God—and that vision is granted only to those who are perfected, to the pure in heart.

In good Aristotelian fashion, therefore, Lewis thinks of all the ordinary decisions of life as forming our character, as turning us into people who either do or do not wish to gaze forever upon the face of God. When "night falls on Narnia" and we get the great scene of final judgment, all the inhabitants of that world have no choice about one thing. All must march past Aslan and look upon him. Some see there the face they have always longed to see, which they have learned to love, and they enter Aslan's world. Others see there a face they can only hate, for that is the sort of person they have become. They go off into nothingness. Every choice counts. Every choice contributes to determining what we ultimately love.

Protestant readers may, I believe, be especially drawn to this picture because, though they might not articulate the matter this way, it supplies something that is often missing from standard Protestant talk of forgiveness and faith, pardon and trust. Lewis' picture suggests that our actions are important not only because they hurt or harm the neighbor, but also because—under grace—they form and shape the persons we are. There are, to be sure, some theological dangers embedded in such a vision of the Christian life, but in Lewis' hands we can also see its power and its allure.

If we ask ourselves, therefore, what accounts for the success Lewis' writings have clearly had in reaching a wide range of readers and in shaping a religiously informed vision of life, his appreciation of the everyday cannot be overlooked. His notion of the everyday comes, of course, with a distinctively British flavor, but that does not seem to have created insurmountable obstacles for his readers. It is not just that he appreciates the everyday, however; it is also that he understands and evokes its significance for our moral and spiritual life. In ordinary pleasures, shafts of the divine glory, God touches our lives to draw us to himself. In *Surprised by Joy* Lewis tells his own life story as one whose underlying theme is *Sehnsucht*—the longing for joy. As Augustine said that our restless hearts could find the rest they desire only in God, so Lewis suggests that the ordinary goods and pleasures of life draw us beyond themselves and beyond ourselves to the only One who is Goodness itself.

But, as Augustine also said in a passage that Lewis places as an epigraph at the start of the last chapter of *Surprised by Joy*, "It is one thing to see the land of peace from a wooded ridge . . . and another to tread the road that leads to it." The ordinary and the everyday count immensely in our moral and spiritual life. In them God touches us to call us to himself. That means also, however, that the stakes there are very high, that seemingly minor decisions may help to shape a person who one day will say—with a tone of utter finality—either "*my* will be done," or "*thy* will be done." God calls to us in the pleasures of everyday life, but we can miss the message. We can refuse to let ourselves be called out beyond the ordinary, we can try to hang on to the everyday—ignoring what is terrible and mysterious about it. Then the manna that we have tried to save rots, the pleasures fade, and we are left with something less than the everyday: with only ourselves. Something like that, surely, is the picture Lewis paints in *The Great Divorce*. The choice is, finally and simply, between heaven and hell. But the choice is made, and eternal issues determined, in our everyday decisions and actions. Every moment of life is momentous—touched by and equidistant from the Eternal.

## II

This is, I have suggested, part of the religious power of Lewis' vision of human life. But there is still more. If we take it only this far, in fact, we probably miss the most penetrating and compelling aspects of his thought. For the God who meets us in the ordinary and the everyday in order to call us to himself is not simply a God who makes us happy. To be sure, he will do that—will make us happier than we can even imagine. But Lewis offers no "feel good" religion, no books about how to live the abundant life. If there is a biblical theme that pervades all his writing it surely is: only the one who loses his life for Jesus' sake will find it. The ordinary pleasures of life give us just an inkling of what true pleasure must be, and Lewis is a master at using them to depict the happiness God will one day bestow on those who love him. But "it is one thing to see the land of peace from a wooded ridge . . . and another to tread the road that leads to it." And the road that leads to it may be painful indeed.

The Christian life hurts. God hurts. That's what Lewis really has to say, and it is, I think, the deepest reason for the power of his writing. "[T]he Divine Nature wounds and perhaps destroys us merely by being what it is," Orual reflects in *Till We Have Faces*. This theme—that God hurts—is perhaps most pronounced in some of Lewis' last works—especially in *Till We Have Faces, A Grief Observed,* and *The Four Loves*. And it is perhaps not insignificant that each of these three works, in different ways, was influenced by Lewis' acquaintance with and, finally, marriage to Joy Davidman Gresham. But, in fact, this theme was present in Lewis' writing almost from the very beginning. Near the end of *The Pilgrim's Regress,* John, the pilgrim who has finally made his way back to Mother Church, sings a song about "the tether and pang of the particular." It may not be great poetry. Despite Lewis' aspirations to be known as an epic poet, it turned out that his talent was for prose. Nevertheless, this very early poem makes clear how the turn (or re-turn) to God wounds our nature.

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Passing today by a cottage, I shed tears
When I remembered how once I had dwelled there
With my mortal friends who are dead. Years
Little had healed the wound that was laid bare.

Out, little spear that stabs, I, fool, believed
I had outgrown the local, unique sting,
I had transmuted away (I was deceived)
Into love universal the lov'd thing.

But Thou, Lord, surely knewest Thine own plan
When the angelic indifferences with no bar
Universally loved but Thou gav'st man
The tether and pang of the particular.

Which, like a chemic drop, infinitesimal,
Plashed into pure water, changing the whole,
Embodies and embitters and turns all
Spirit's sweet water to astringent soul.

That we, though small, may quiver with fire's same
Substantial form as Thou—not reflect merely,
As lunar angel, back to thee, cold flame.
Gods we are, Thou hast said: and we pay dearly.

Rather abstractly put, perhaps, but to the point. Lewis put flesh and bones on this abstraction in *The Magician's Nephew,* where Digory is forced to choose between obedience to Aslan's command and an action that may save the life of his dying mother. And, although the poem from *Pilgrim's Regress* surely betrays the influence of philosophical idealism on Lewis' thought, it also shows certain Christian assumptions about what it means to be human. We are created as both finite and free—made from the dust of the ground, tied to particular times and places, but also made for something more, a something more that is finally God.

Thus, the poem recognizes our finitude: We are not angels who love only universally, simply reflecting back the divine love. We also love particularly, with the tether and pang of the particular. We never outgrow "the local, unique sting," nor transmute it into universal love alone. Yet, we are also free, made for God. We must therefore learn how to love more universally—and, ultimately, how to love God, who is by no means ours alone. We live with this duality of our being, with our hearts both tied to what is local and unique and drawn toward the universal. Living within that tension, as the poem puts it, "we pay dearly."

The movie *Shadowlands* got it right, therefore, in a conversation it imagines between Lewis and Joy. During the period when her illness is in remission, Joy and Jack are on a trip and, taking shelter from the rain, suddenly find themselves talking about what lies ahead. Jack expresses his fear, fear of the pain he will feel when he loses her. To which Joy responds: "The pain then is a part of the pleasure now. That's the deal." The pleasure now is grounded in a particular commitment of the heart, and such a commitment makes us vulnerable. It sets us up to be hurt. But we can avoid that pain only by refusing right now to give our heart to anyone whom we might one day lose. We can, that is, avoid future pain only by retreating entirely into the self, by caring about nothing outside the self. But that, of course, would be hell—a retreat into the "ruthless, sleepless, unsmiling concentration upon self" that Lewis calls "the mark of Hell."

Even in his stories for children, Lewis does not hesitate to emphasize the appropriateness and necessity of suffering. When, in *The Last Battle,* "night falls on Narnia" and Aslan pulls down the curtain on Narnian history, the children who are friends of Narnia find themselves in Aslan's world—an even more wonderful place to be. But Lucy begins to cry at the thought of what they have left behind. "What Lucy!" Peter says. "You're not *crying*? With Aslan ahead, and all of us here?" To which Tirian, last of the kings of Narnia, who has come into Aslan's world with the children, replies. "Sirs, the ladies do well to weep. See I do so myself. I have seen my mother's death. What world but Narnia have I ever known? It were no virtue, but great discourtesy, if we did not mourn." Likewise, expressing and reflecting upon his own very deep personal anguish in *A Grief Observed,* Lewis writes that what he wants in his bereavement is to continue to live his marriage "well and faithfully" in and through his loss. "We were one flesh. Now that it has been cut in two, we don't want to pretend that it is whole and complete."

We could try to avoid this pain by holding on to the beloved—if only in memory—as if she were ours, our possession. That would, of course, be futile, but, still more important, it would be to miss the call of God that comes to us in and through the loved one. It would be to mistake the gift for the Giver. Or we could try to avoid this pain by telling ourselves that there has been no real loss. God's will has been done, and the loved one is now better off. But true though this is from one angle, it does less than justice to that "local, unique sting" that should and does characterize our loves. Lewis puts the point very directly and insightfully, again in *A Grief Observed*:

> If a mother is mourning not for what she has lost but for what her dead child has lost, it is a comfort to believe that the child has not lost the end for which it was created. . . . A comfort to the God-aimed, eternal spirit within her. But not to her motherhood. The specifically maternal happiness must be written off. Never, in any place or time, will she have her son on her knees, or bathe him, or tell him a story, or plan for his future, or see her grandchild.

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This theme—of the tension or rivalry between our natural loves and love for God—is given its most systematic treatment by Lewis in *The Four Loves*, a book that deserves, I believe, to be considered a minor classic in Christian ethics. The book is powerful because Lewis does not content himself only with noting the possible rivalry between particular loves and love for God. With each of the loves that he takes up—affection, friendship, and erotic love—he begins where I began above: by depicting for us the sublime within the everyday.

Thus, he finds in each of the natural loves an image of what divine love itself is in part. We see one facet of God's love, for example, in the undiscriminating character of affection. Given familiarity over time, almost anyone can become an object of affection. Hence, this love manifests an implicit openness to the worth of every human being. Friendship, by contrast, is clearly a discriminating love, for we are friends only with certain people whom we have chosen for particular reasons. But, at the same time, friendship is, unlike affection, the least jealous of loves. Our circle of friends will be open to anyone who shares the interest that binds us together, and in that sense friendship is implicitly universal. If affection is jealous but undiscriminating, and friendship is discriminating but not jealous, eros is both discriminating and jealous. How, then, might it image for us divine love? In selfless devotion eros plants "the interests of another in the center of our being. Spontaneously and without effort we have fulfilled the law (towards one person) by loving our neighbor as ourselves. It is an image, a foretaste, of what we must become to all if Love Himself rules in us without a rival."

Lewis' first move is to evoke the beauty and the splendor of the natural loves, the way in which they give pleasure. And surely, part of the hold of this book upon several generations of readers has been its ability to evoke delight—to help us appreciate the beauty of the natural loves and find in them shafts of the divine glory. But Lewis' discussion never stops there. He never forgets that "the Divine Nature wounds and perhaps destroys us merely by being what it is." And so, with each of the loves he notes also its insufficiency—the way in which, even and especially at its very best, it may go wrong. Affection is prone to jealousy and wants to possess the loved one. Still more, it needs to be needed. In affection we desire only the good *we* can give, which is not always the good the loved one needs. The love of friendship is always tempted to exclusivity. Rightly excluding those who do not share our special interests, we may easily take pride in our circle of friends and come to value exclusivity for its own sake. And so powerful, almost godlike, is the claim of eros upon us, that we may do great injustice in its name. Left to itself eros is likely to be fickle and unfaithful, to work harm and havoc in human life.

Therefore, each of the natural loves, beautiful and splendid as they are in themselves, must be transformed by charity, by love of God. They must be taken up into a life directed toward God and be reborn—transformed and perfected as "modes of charity." Lewis' concluding chapter on charity in *The Four Loves*, among the most powerful pieces of his generally powerful prose, is a haunting depiction of the way in which this needed transformation is likely to be painful. We say that the natural loves are transformed and perfected, but that language does not quite capture the truth of our experience. It may sometimes feel more like death—that the natural loves must be put to death so that a new life marked by charity can arise. With just such an idea in mind—namely, that the needed transformation of our natural loves may seem akin to dying—Josef Pieper once recalled that charity has been pictured by Christians as a consuming fire, and that it is therefore "much more than an innocuous piety when Christendom prays, 'Kindle in us the fire of Thy love.'"

At their very best, therefore, the natural loves fall short. In themselves they are good, but they were never meant to be simply "in themselves"—to be isolated from the God-relation, to be anything other than modes of charity. But in our sin we do isolate and idolize them, refusing to recognize that they are and must remain *creaturely* loves. Because we do so, we can only experience the transformation of our loves as painful. When God redirects them to himself, it hurts. We can, of course, say, with perfect justification, that this redirection is a restoration of them to what they are meant to be. It is a liberation of their true beauty and is in the service of their genuine flourishing. In the Augustinian language that underlies Lewis' treatment in *The Four Loves*, it is the restoring of inordinate love to right order. It is the restoration of harmony between nature and grace.

All true—and truly said. But we cannot always—perhaps not even often—experience this restoration as liberation and fulfillment. For all that is "far away in 'the land of the Trinity,'" and we remain pilgrims on the way. Along the way, nature may often seem wounded by grace. When, in the theological struggles to which the Reformation gave rise, Protestants depicted a nature so thoroughly corrupted by sin that death and rebirth were necessary, Catholics sometimes thought that this demonstrated an insufficient appreciation of the continuing goodness of creation, of its ability to point us to God. And so, Catholics responded by saying that "grace does not destroy nature, but perfects it." That is, over against an image of death and resurrection they set an incarnational image—not a destruction of the natural life and a new birth, but the natural life taken up into and perfected within a graced life.

Lewis, mere Christian that he seeks to be, sees the worth of both pictures of the Christian life—and sees it quite profoundly. As always in his view, the real

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truth of things is captured in the Catholic formulation: The natural life is God's good gift; he will not destroy but perfect it. The natural loves are transformed when they become incarnate as modes of charity. But the Protestant formulation captures something very important about the truth of our experience, about what this transformation may feel like. It hurts.

Lewis' most haunting depiction of nature wounded by grace must certainly be one of his least read books, *Till We Have Faces*. Before the story is over, Orual comes to see the harsh truth about her love for Psyche and others. It had been a "gnawing greed." She comes to see that the kingdom of Glome "was a web—I the swollen spider, squat at its center, gorged with men's stolen lives." Yet, her natural loves of affection, friendship, and eros were not mere selfishness. They were, in some ways, the natural loves at their best. As Lewis once put it in a letter to Clyde Kilby, Orual is an example of "human affection in its natural condition, true, tender, suffering, but in the long run tyrannically possessive and ready to turn to hatred when the beloved ceases to be its possession."

Sin builds its throne at the heart of what is best in our nature, and, then, when God draws us toward himself, it may feel the way it felt to Orual when the Divine surgeons went to work on her. What she experienced was loss and suffering—so great, indeed, that she finally cries out: "That there should be gods at all, there's our misery and bitter wrong. There's no room for you and us in the same world." Striving for independence, striving to isolate her natural loves from the only context in which they could ultimately flourish, Orual had been making war on the reality principle of the universe. How can the gods meet us face to face, she finally asks, till we have faces? She had to be broken to be transformed.

I do not believe there is any theme more central to Lewis' vision of human life in relation to God, and I think there are very few indeed who have managed as well as he to invoke simultaneously in readers both an appreciation for and delight in our created life, and a sense of the pain and anguish that come when that life is fully redirected to the One from whom it comes. "To love at all," Lewis wrote in *The Four Loves*, "is to be vulnerable. . . . The alternative to tragedy, or at least to the risk of tragedy, is damnation. The only place outside Heaven where you can be perfectly safe from all the dangers and perturbations of love is Hell." The whole of life, therefore, every ordinary and everyday moment of it, every choice that we make, is charged with the significance of an eternal either/or. Which means, I guess, that no moment is simply ordinary.

Here, I think, we find the truth behind the remarkable staying power of Lewis' writings. He is not really returning theology to the masses. In fact, in the strict sense, he can hardly be said to be writing theology. He gives us something better—the feel, the quality, of a life truly lived before God. He gives us the everyday—in all its splendor, terror, pain, and possibility. And through what is ordinary and everyday he invites us to enter into that "mystical death which is the secret of life." FT

## Flathead Lake, Montana

*"Christ plays in ten thousand places"—G. M. Hopkins*

Lying here on the short grass, I am
a bowl for sunlight.

Silence. A bee. The lip lip of water
over stones. The swish and slap, hollow

under the dock. Down-shore
a man sawing wood.

Christ in the sunshine laughing
through the green translucent wings

of maple seeds. A bird
resting its song on two notes.

**Luci Shaw**

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# That Eminent Tribunal

## *Francis Canavan*

It is commonplace in pro-life circles to compare the U.S. Supreme Court's decision in *Roe v. Wade* (1973) to the Court's historic decision in 1857 in *Dred Scott v. Sandford.* In both cases, pro-life advocates claim, the Court denied essential constitutional protections to whole classes of people. Defenders of *Roe* deny the connection: *Dred Scott* denied black people's right to freedom, they say, while *Roe* extended women's freedom by allowing them to choose whether or not to carry a fetus to term. There are, of course, differences between the cases, but I would argue that it is their similarities that are most significant. Indeed, one can trace a long, slow, uneven path from *Dred Scott* to *Roe*—and even beyond *Roe* to the present day.

The structural similarities between the cases are clear enough. Each concerned a growingly contentious issue in politics, each sought to take it out of politics by deciding it judicially on constitutional grounds, and each did so by basing the decision on the due process clause of the Constitution. Or, to be precise, the due process clauses, for there are two.

One of them is in the Fifth Amendment, which provides that "no person . . . shall be deprived of life, liberty, or property without due process of law." This clause is a restraint only on the powers of the federal government and was the only due process clause in the Constitution at the time of the *Dred Scott* case. The other one was included in section 1 of the Fourteenth Amendment after the Civil War: "No state shall . . . deprive any person of life, liberty, or property without due process of law," to which was added, "nor deny to any person within its jurisdiction the equal protection of the laws."

The most important argument used by Chief Justice Roger Taney in denying Dred Scott his freedom was a due process one. Scott's master, a military surgeon, had taken him for an extended period of time to an Army fort in the Wisconsin Territory, where federal law at that time forbade slavery. On his return to Missouri, Scott sued for his freedom in that state's courts on the ground that his residence on free soil had freed him. But Taney held that Congress had no power to deprive a slaveowner of his property in his slave without due process of law. For, he argued, "An Act of Congress which deprives a citizen of the United States of his liberty or property merely because he came himself or brought his property into a particular territory of the United States, and who had committed no offense against the laws, could hardly be dignified with the name of due process of law."

This decision was handed down in the midst of a political debate over the power of Congress to ban slavery in the territories. The stakes in the controversy were high because the South saw the congressional power as leading to a Northern majority in the Senate that could eventually endanger the South's "peculiar institution" when the non-slaveholding territories became states.

Taney's application of the due process clause to the power of Congress was not entirely a new one; it had recently been used by both sides in the political debate. Constitutional historians Alfred H. Kelly and Winifred A. Harbison (writing nearly twenty years before *Roe v. Wade*) pointed out that the first Republican national convention in 1856 had appealed to the Fifth Amendment's due process clause, and so did Southern spokesmen:

> Since slavery denied persons their liberty without due process, it was therefore illegal in the territories, where the federal government had full sovereignty. Strangely enough, this argument was not unlike the Southern interpretation of due process in that it rested on a *substantive* interpretation of the due process clause, but

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> it drew precisely the opposite conclusion. Jefferson Davis and other Southerners contended that due process prevented any interference with the slaveholder's right to hold property in human beings. [Emphasis added.]

Yet the argument on both sides was a novelty. Kelly and Harbison remark:

> Due process of law had for centuries been accepted as a mere procedural guarantee, extending to accused persons all the safeguards of a fair and impartial trial. Until a short time before it had never been assumed that it was an absolute limitation upon the right of a legislature to restrict property rights in the interest of the public welfare.

But in 1856 a New York state court had voided a state law that destroyed certain property rights on the ground that it violated due process of law. "It is highly probable," Kelly and Harbison claim, "that Taney knew of this association and was influenced by it in applying substantive due process to slavery in the territories."

The novelty therefore lay in giving the due process clause a substantive meaning. It no longer was taken to mean merely that government could deprive persons of life, liberty, or property only by proper legal procedures. It now was assumed to mean that the substance of a law was open to question if it violated or impaired rights to life, liberty, or property, and that the content of those rights was subject to judicial determination and enforcement.

Another constitutional historian, Carl Brent Swisher (also writing almost twenty years before *Roe*), remarked: "By handling the case in this manner, he [Taney] hoped he could do something toward suppressing anti-slavery agitation and ward off the conflict between the two sections of the country. The decision had the opposite effect. . . . It is safe to say that no decision in American history has done more to injure the reputation of the Supreme Court."

It was the *Dred Scott* case that President Abraham Lincoln had in mind when he said in his First Inaugural Address:

> The candid citizen must confess that if the policy of the government upon vital questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court . . . the people will have ceased to be their own rulers, having to that extent practically resigned their government into the hands of that eminent tribunal.

The *Dred Scott* decision was effectively reversed by the Civil War and by the amendments to the Constitution that the victorious North imposed on the South. These freed the slaves and gave them citizenship and the right to vote. But the due process and equal protection clauses in section 1 of the Fourteenth Amendment wrought a revolution in the American federal system and paved the way for the Supreme Court to gain a position of power beyond anything that Roger Taney ever imagined.

This was certainly not the intention of the Radical Republicans who dominated Congress after the Civil War. But they unwittingly laid the groundwork for it by giving the Supreme Court a constitutional amendment couched in terms so broad and undefined that it eventually became a vehicle for freewheeling judicial activism and thereby turned judicial review into a legislative power.

The principal author of section 1 of the Fourteenth Amendment was Rep. John A. Bingham of Ohio. The form in which he originally proposed it was: "The Congress shall have power to make all laws which shall be necessary and proper to secure to the citizens of each state all privileges and immunities of citizens in the several states and to all persons in the several states equal protection in the rights of life, liberty, and property." This was clearly a grant of lawmaking power to Congress. Its primary purpose was to enable Congress to enact civil rights laws that would override the Black Codes that Southern states adopted after the abolition of slavery in order to deny to black persons the same civil rights as whites. Bingham said this emphatically in introducing his amendment.

He repeated it when his amendment had come back from the Committee on Reconstruction in its present form as section 1 of the Fourteenth Amendment. Section 1, he explained, supplies "a want" in our Constitution, namely, "the power in the people, the whole people of the United States, by express authority of the Constitution, to do that by congressional enactment which hitherto they have not had the power to do, . . . to offer protection by national law from unconstitutional state enactments. . . . That is the extent it hath, no more."

In its final form Bingham's amendment became the first in a series of four sections, and the power of Congress to enact laws to enforce the provisions of these sections had been relegated to section 5. The intention of the framers continued to be to grant legislative power to Congress, not the courts. It is hardly believable that in 1866 they trusted the Supreme Court to carry out their program for the protection of the black inhabitants of the Southern states. Only nine years earlier, as we have seen, the Court had interpreted the due process clause of the Fifth Amendment to mean that Congress could not bar slavery from the territories (and that members of the black race could not be citizens of the United States or enjoy any rights and privileges save those that the dominant white race chose to grant them). Yet the

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fact remains that Congress did put section 1 into the Fourteenth Amendment as a separate and freestanding part of it, under which the Court may and indeed must decide lawsuits that properly raise the question of the constitutionality of state laws, and this without waiting for an act of Congress. The Court's fault has been to interpret the due process and equal protection clauses as guaranteeing substantive rights whose content is not specified in the text and is of such generality that only the Court can decide what that content is and what its limits are.

Judge Robert H. Bork has criticized the idea of substantive due process of law, saying that "the guarantee of due process . . . says nothing whatever about what the substance of the law must be." Substantive due process "transforms this requirement of fair procedures into a rule about the allowable substance of a statute."

The opposite view is now dominant in the nation's most prestigious law schools. To cite but one example, Kathleen M. Sullivan, then a professor of law at Harvard University, wrote in a July 29, 1990 op-ed column in the *New York Times*: "The Constitution's broad terms—terms like 'liberty,' 'equality,' and 'freedom of speech'—are hardly self-defining. Reasonable people can differ over their scope. But differences about interpretation should not be confused with usurpations of political will."

One must admire the insouciance with which Professor Sullivan asserts that determining the concrete meaning of an undefined "liberty" or "equality" is not policy-making, and therefore rightly belongs to the Court. A bench of judges that takes upon itself the power to turn "liberty" into a detailed body of binding law is of course exercising legislative power and making policy decisions. However wise and just they may be, they are political judgments that make law and not merely legal judgments that apply the law to individual cases.

If the Supreme Court is to be kept from legislating, the key issue in the controversy over the interpretation of section 1 cannot be the meaning of "liberty" and "equality" but the meaning of "due process of law" and "the equal protection of the laws." Section 1 does not forbid deprivation of life, liberty, or property, but only deprivation of those basic human goods without the legal procedures that fairness and justice require. Nor does it impose an abstract norm of equality; it requires only that whatever protection the laws of a state provide must be provided equally to all persons within the state's jurisdiction. Obviously, neither of these phrases is without its own difficulty of interpretation, and controversy about them will never end. But they are not blanket commissions issued to the Supreme Court to define and impose the concrete meanings of "liberty" and "equality."

The Court has repeatedly said that its function is not to judge the wisdom or the policy of laws, but only to judge whether or not they are exercises of powers granted to the federal government by the Constitution or denied by it to the states. But reading substantive due process and substantive equal protection into the Constitution achieves the very result that the Court explicitly denies itself. By giving itself the power to strike down laws as depriving persons of constitutionally undefined rights, the Court makes itself a super-legislative body.

The Court in fact was slow to accept the idea of substantive due process regarding rights not specified in the Constitution. The Fourteenth Amendment was ratified by the states in 1868, but it was only in *Allgeyer v. Louisiana* in 1897 that the Court found in it a freedom to make business contracts. The freedom in that case was carefully delimited. But in *Lochner v. New York* in 1905 the Court struck down a New York law limiting the number of hours per week that men could work in bakeries as a deprivation of the liberty guaranteed by the due process clause. Such laws, it said, were "mere meddlesome interferences" with the right of "grown and intelligent men" freely to contract for the sale of their labor.

From this root there grew a line of decisions invalidating state laws that regulated the hours and wages of work. Please note that the issue is not whether one approves of minimum-wage and maximum-hours laws, but only whether the Constitution gives judges the power to declare them to be in violation of the Constitution because they deprive workers and employers of "freedom of contract." Finally, in 1937 (*West Coast Hotel v. Parrish*), the Court admitted the following:

> The Constitution does not speak of freedom of contract. It speaks of liberty and prohibits the deprivation of liberty without due process of law. By prohibiting that deprivation the Constitution does not recognize an absolute and uncontrollable liberty. Liberty in each of its phases has a history and connotations. But the liberty safeguarded is liberty in a social organization which requires the protection of law against the evils which menace the health, safety, morals, and welfare of the people. Liberty under the Constitution is thus necessarily subject to the restraints of due process, and regulation which is reasonable in relation to its subject and is adopted in the interests of the community is due process.

Under this norm, freedom of contract disappeared from constitutional law, to be replaced by a standard of reasonableness. This latter norm prohibits the exercise of arbitrary power by state legislatures, and means that not every law that they enact is by that fact alone constitutional. As the Court had said long before (*Hurtado v. California*, 1884), "It is not every act, legislative in form, that is law. Law is

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something more than mere will exerted as an act of power." The Court gave examples of such legislative violations of due process of law: "Acts of attainder, bills of pains and penalties, acts of confiscation, acts reversing judgments and acts directly transferring one man's estate to another, legislative judgments and decrees, and other similar special, partial, and arbitrary exertions of power under the forms of legislation." All such acts, though in the form of legislation, violate the basic requirement of law that it be an act of reason, not an arbitrary exercise of naked will.

Legislation, then, must not be arbitrary—but what is arbitrary? One way of answering that question that won favor from the Court was to "incorporate" certain specific provisions of the Bill of Rights (the first eight amendments to the Constitution) into the Fourteenth Amendment by finding them to be implicit in the due process clause. Governmental actions contrary to those provisions were considered to be arbitrary and therefore prohibited to the states.

How, then, did the Court decide which provisions of the Bill of Rights are incorporated into the due process clause? The Court explained in 1937 (*Palko v. Connecticut*) that due process did not require incorporating those provisions that "are not of the very essence of a scheme of ordered liberty." A state acting against such provisions would not violate "a principle of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental." Ranking clauses of the Bill of Rights as fundamental means that "a fair and enlightened system of justice would be impossible without them." This is the norm by which arbitrary and therefore unconstitutional legislation is to be judged.

In 1925 (*Gitlow v. New York*) the Court began the process of "incorporating" by declaring that the First Amendment's guarantee of the freedom of speech and of the press was binding on the states because it is implicit in the liberty included by the due process clause. In 1940 (*Cantwell v. Connecticut*) it similarly found the First Amendment's free exercise of religion clause and in 1947 (*Everson v. Board of Education*) its establishment clause to be guaranteed by due process of law.

This process continued apace, and incorporated both procedural and substantive rights found in the Bill of Rights. But in 1965 the Court came up against a case in which the desired result could not be based on any express provision of the Bill of Rights. In *Griswold v. Connecticut* the issue was the constitutionality of a Connecticut statute that forbade, under penalty, the use of contraceptives. The issue was not, we must remember, the morality of contraception or the wisdom of the statute but whether the law in question deprived married persons of a right guaranteed to them by the due process clause.

In an opinion written by Justice William Douglas, the Court held that it did. "The association of people is not mentioned in the Constitution nor in the Bill of Rights." he admitted. But he found a way to bring it under the Bill of Rights: "We do not sit as a super-legislature to determine the wisdom, need, and propriety of laws that touch economic problems, business affairs, or social conditions. This law, however, operates directly on an intimate relation of husband and wife and their physician's role in one aspect of that relation." Earlier decisions of the Court, Douglas said, "suggest that specific guarantees in the Bill of Rights have penumbras formed by emanations from those guarantees that help give them life and substance." These penumbras establish "a zone of privacy created by several fundamental constitutional guarantees." In that zone the Court found a previously unspecified right to contraception.

It was this result against which Justice Hugo Black protested in his dissenting opinion. He made it plain that he disapproved of the Connecticut law. But the Court had renounced the power it had claimed in the early decades of the century to strike down economic legislation under the due process clause. That power was "no less dangerous when used to enforce this Court's views about personal rights than those about economic rights."

Black therefore objected strongly to finding a "right of privacy" in the Constitution, where it is nowhere mentioned. "'Privacy,'" he said, "is a broad, abstract, and ambiguous concept which can easily be shrunken in meaning but which can also, on the other hand, be interpreted as a constitutional ban against many other searches and seizures [than those intended by the Fourth Amendment]." Judging the constitutionality of laws by the Court's "appraisal of the wisdom of legislation," as he accused the Court of doing in this case, "is an attribute of the power to make laws, not of the power to interpret them." "Use of any such broad, unbounded judicial authority would make of this Court's members a day-to-day constitutional convention," and "the adoption of such a loose, flexible, uncontrolled standard for holding laws unconstitutional, if ever it is finally achieved, will amount to a great unconstitutional shift of power to the courts which I believe and am constrained to say will be bad for the courts and worse for the country."

Today the emanations and the penumbras of the Bill of Rights have faded into the background, and the Court goes directly to the concepts of liberty and equality to find in them concrete rights guaranteed by the due process and equal protection clauses. These rights are then declared to be so fundamental that deprivation or limitation of them is arbitrary unless justified by "a compelling state interest," of which the Court is the judge and often finds not to exist.

By going down this road the Court has transformed the Constitution from a text into a body of judge-made constitutional law that broadens from

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precedent to precedent. In so doing it forgets a wise remark made by Justice Frankfurter in 1938 (*Graves v. New York*): "The touchstone of constitutionality is the Constitution itself and not what we have said about it."

Unspecified constitutional rights are expandable beyond any certain and predictable limits. When the voters of Colorado adopted an amendment to their state constitution that prohibited legal enactments banning discrimination based on sexual orientation, the Court (*Romer v. Evans*, 1996) found that the amendment deprived homosexuals of the equal protection of the laws, and was motivated by nothing but "animus" toward homosexuals. The equal protection of the laws thus came to mean the equality before the law of all lifestyles, and implicitly negated the age-old police power of the states to legislate for the protection of the public health, safety, welfare, and morals.

There have been some recent tentative signs of caution among the Justices. In 1997 a unanimous Court upheld state legislation banning assisted suicide (*Vacco v. Quill* and *Washington v. Glucksberg*). But the lower federal courts that had held the legislation unconstitutional had used the reasoning of the Court majority in its rulings on abortion, and in the light of that reasoning, it was difficult to see how the Court could avoid arriving at the same conclusion in regard to suicide. Indeed it seems to have done little more than to deny that there was a universal right to assisted suicide; concurring opinions indicated that five Justices were prepared to recognize it as a constitutional right in certain circumstances.

The Court, of course, claims that it follows constitutionally applicable norms in deciding which rights are fundamental and thus outside the political process. The majority and dissenting opinions in *Bowers v. Hardwick* in 1986 (decided by a 5-4 vote) were a full-dress debate on the meaning of those norms. The majority and dissenting opinions revealed how radical the variation in the interpretation of them can be, and how little restraint they impose on the Justices.

The issue in *Bowers* was the constitutionality of a Georgia law that made sodomy a crime: Did Georgia have the constitutional power to enact such a law? Writing for the majority, Justice Byron White affirmed that it did; Justice Harry Blackmun, writing for the dissenters, said that it did not.

Justice White began by admitting:

> It is true that despite the language of the due process clause of the Fifth and Fourteenth Amendments, which appears to focus only on the processes by which life, liberty, or property is taken, the cases are legion in which those clauses have been interpreted to have substantive content, subsuming rights that to a great extent are immune from federal or state regulation or proscription. Among such cases are those recognizing rights that have little or no textual support in the constitutional language.

But, lest it appear that "announcing rights not readily identifiable in the Constitution's text" is nothing more than "the imposition of the Justices' own choice of values on the states and the federal government," the Court has enunciated certain standards for identifying fundamental rights. These are the rights "implicit in the concept of ordered liberty," so that "neither liberty nor justice would exist if [they] were sacrificed." Further, they are rights "deeply rooted in this nation's history and tradition." Given the long and widespread existence of state laws criminalizing sodomy, Justice White commented, "to claim that a right to engage in such conduct is 'deeply rooted in this nation's history and tradition' or 'implicit in the concept of ordered liberty' is at best facetious."

Justice Blackmun responded that the case was not about "a fundamental right to engage in homosexual relations," as the majority opinion pretended. Instead, he raised the right at issue to a higher level of generality. It was now presented as the right of citizens to make "choices about the most intimate aspects of their lives," and the individual's "right of intimate association [which] does not depend in any way upon his sexual orientation."

The premise of Blackmun's argument is a radical individualism: the right to associate with others in intimate ways is simply for the sake of the individuals involved. We protect the associations included in it, he says, "not because they contribute, in some direct and material way, to the general public welfare, but because they form so central part of an individual's life." Thus we protect "the decision whether to marry," precisely because marriage "is an association that promotes a way of life." Similarly, "we protect the decision whether to have a child because parenthood alters so dramatically an individual's self-definition," and "we protect the family because it contributes so powerfully to the happiness of individuals, not because of a preference for stereotypical households." All of us depend on the "emotional enrichment of close ties with others," which enable us to discover who we are. "Individuals define themselves in a significant way through their intimate sexual relationships with others," and "much of the richness of a relationship will come from the freedom an individual has to *choose* the form and nature of these intensely personal bonds."

In this case, therefore, "what the Court really has refused to recognize is the fundamental interest all individuals have in controlling the nature of their intimate associations with others." In this matter, "depriving individuals of the right to choose for themselves . . . poses a far greater threat to the values most deeply rooted in our nation's history than tolerance of nonconformity could ever do."

Justice Blackmun thus turned the right of privacy

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into a general right to choose in sexual and other consensual activities. Underlying his argument was a theory of the nature of man and of human society—a theory never put before or certified by the people—which Blackmun and his colleagues in dissent found embodied in the values most deeply rooted in American history.

In the majority opinion Justice White had warned against this kind of judicial reasoning:

> The Court is most vulnerable and comes nearest to illegitimacy when it deals with judge-made constitutional law having little or no cognizable roots in the language or design of the Constitution. . . . There should be, therefore, great resistance to expand the substantive reach of [the due process clause], particularly if it requires redefining the category of rights deemed to be fundamental. Otherwise, the Judiciary necessarily takes to itself further authority to govern the country without express constitutional authority.

It is true that Justice Blackmun spoke for a minority on the Court, but it came very close to being a majority (after his resignation from the Court, Justice Lewis Powell said he now thought he should have voted with the dissenters). Blackmun's rhetoric appeared again in an important plurality opinion in *Planned Parenthood v. Casey* in 1992. Only three Justices subscribed to the opinion, but enough Justices concurring in part and dissenting in part supported the opinion's reaffirmation of "the central holding" of *Roe v. Wade* to constitute a majority on that point.

Having referred to the constitutional protection given in earlier cases to "personal decisions relating to marriage, procreation, contraception, family relationships, child rearing, and education," the opinion stated:

> These matters involving the most intimate and personal choices a person may make in a lifetime, choices central to personal dignity and autonomy, are central to the liberty protected by the Fourteenth Amendment. At the heart of liberty is the right to define one's own concept of existence, of meaning, of the universe, and of the mystery of human life. Beliefs about these matters could not define the attributes of personhood were they formed under compulsion of the state.

It apparently escaped the notice of the Justices that this case, like the *Bowers* case, concerned not beliefs but actions, and that the actions that supposedly promoted defining one's concept of existence, meaning, the universe, and the mystery of human life were sodomy and abortion. I once heard a university professor tell the audience at a public debate on the *Bowers* case: "I achieve my personal identity through oral and anal sex." A remarkable feat, one must agree. But what makes it a constitutional right so implicit in due process that without it neither liberty nor justice would exist?

The plurality opinion also includes a plaintive plea to the country to accept the Court's decision in *Roe v. Wade* and "rare, comparable cases" as intended to take a deeply divisive issue out of politics. Such cases have "the dimension present whenever the Court's interpretation of the Constitution calls the contending sides of a national controversy to end their national divisions by accepting a common mandate rooted in the Constitution." But whether the Court's decision is rooted in the Constitution is precisely the point at issue.

Furthermore, *Roe v. Wade* has not resolved the abortion issue. On January 16, 1998, the *New York Times* reported on page one: "Twenty-five years and nearly thirty million abortions after the Supreme Court's landmark *Roe v. Wade* decision," a *New York Times*/CBS poll has shown that "at base, the country remains irreconcilably riven over what many consider the most divisive American issue since slavery."

The *Planned Parenthood v. Casey* opinion went on to predict the disastrous effects of reversing the Court's decision in *Roe v. Wade*. One of them was that "a decision to overrule Roe's essential holding would address error, if error there was, at the cost of both profound and unnecessary damage to the Court's legitimacy and to the nation's commitment to the rule of law." But the Court itself has damaged its "legitimacy" and is losing its credibility by using the vague concepts of liberty and equality as an unfailing fountain of unspecified substantive rights.

As Edmund Burke remarked, "All government stands upon opinion," and its enemies "know that the way utterly to destroy it is to remove that opinion, to take away all reverence, all confidence from it." Yet for thirty-odd years the Supreme Court has been doing just that to itself. The Court would therefore do well to stop trying to settle highly controversial issues by hitting the ball out of the constitutional park; it does better when it bunts.

For our part, we, the people, will do well to remember that every constitutional restraint, textual or judge-made, on the powers of the legislative and executive branches is ipso facto and necessarily a transfer of power to the Court and the courts. We must therefore ask ourselves how much power we want to give the courts, and take what steps we can to limit that power to its proper function. The Constitution, after all, is the supreme law of the land because it is an act of the sovereign people, not of the Supreme Court. If we do not seriously ask this question, then, as Abraham Lincoln said, the people will "have ceased to be their own rulers, having to that extent practically resigned their government into the hands of that eminent tribunal." FT

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# Discovering the Talmud

***Eric M. Chevlen***

Consider the book we are talking about. It is written in two foreign languages, one of which is native to but one small country, and the other now spoken nowhere on earth. It is the product of a minority culture within a vast and now crumbled empire. The text itself is ancient, handicapped by scribal errors and emendations of hostile censors over the centuries. Its subject matter is often abstruse, ranging from such exalted topics as the contents of the phylacteries worn by a decidedly non-corporeal divinity, to such humble ones as the direction a person should face while defecating. Its logic is precise, indeed sharply exacting, but idiosyncratic. There is no obvious order to its discussion, it has neither index nor table of contents, not even punctuation, and it is riddled with unexplained abbreviations. Oh, yes, one other thing: there are no vowels.

The book, of course, is the Babylonian Talmud (*Talmud Bavli* in Hebrew). And despite all the difficulties described above, the Talmud has been the daily reading of thousands of people for fifteen hundred years. During two-thirds of that time, the book existed only in manuscript form. For centuries it was commonplace for scholars to scrimp on food in order to afford a tractate of the Talmud, and bequeathal of the book was often explicitly mentioned in their wills. Now, the ongoing publication of an important annotated new translation* provides an occasion to review not only this translation, but briefly to review the role of Talmud in Jewish life.

Jewish tradition teaches that the Torah (the Pentateuch) was revealed by God to Moses at Mount Sinai. The tradition allows no room for human mediation in the content of this revelation. Not only was the revelation word for word, but, as Jeffrey Satinover emphasizes in *Cracking the Bible Code*, it was letter for letter. Consequently, every word, and even every letter, has the plenitude of meaning that only a divine author can endow.

The meaning of the text, continues the tradition, was also revealed to Moses, and was passed on orally from him to Joshua, and thence to the Elders, to the prophets, to the Men of the Great Assembly, etc., down to the current time. The Oral Law is self-evidently necessary. When God commanded us to "take the fruit of goodly trees" (Leviticus 23:40), surely He would let us know which trees were the subject of that commandment. When He commanded us to do no work on the Sabbath, surely He would tell us what constitutes work. He instructed us to slaughter our animals "as I have commanded you" (Deuteronomy 12:21). Yet the Torah includes no written commandment concerning the method of slaughter to correspond to this reference. The ultimate Promise Keeper said He had (already) commanded us. Doubtless, He did. These details and more are the subject of the Oral Law.

Not surprisingly, the Talmud itself discusses the importance of the Oral Law. In Tractate *Shabbos* 31a, we read of an incident involving the great sage Hillel (first century B.C.E.) and a gentile who sought conversion to Judaism with the stipulation that he would be bound only by the tenets of the Written Law, and not the Oral Law. The gentile had already been rebuffed by a colleague of Hillel, since a convert must accept both aspects of Torah, or be rejected. But Hillel felt that the gentile's rejection of the Oral Law was due to ignorance rather than conviction, and he agreed to instruct him with intent to conversion. The first day, Hillel taught the gentile the Hebrew alphabet, starting "*aleph, beis, gimmel, dalet,*" etc. But when the gentile returned for his second lesson the next day, Hillel reversed the names of the letters. The would-be convert protested, "But yesterday you did

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* TALMUD BAVLI: The Schottenstein Edition. Artscroll Series. Mesorah Publishing (Brooklyn, NY).



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not recite it to me this way!" To which Hillel replied, "So you see, then; are you not relying upon me to recognize the letters of the alphabet? Rely on me also, then, about the veracity of the Oral Law." Ultimately, even if it is only at the level of the pronunciation of the letters and the meaning of the words, there must be some oral tradition underlying our understanding of any written text.

An oral law fulfills needs that a written law cannot, just as whispered words of love convey a meaning greater than ink on paper. It is necessarily dialogical, since there can be no oral transmission without an aural reception. The oral tradition cannot be conveyed without a personal relationship between teacher and disciple, and inevitably the conduct of the master in fulfilling the law becomes part of the teaching too. One disciple described in the Talmud even hid under the bed of his master, the better to learn from the master how the Torah requires a man to treat his wife with tenderness. An oral tradition has a vivacity and vibrancy that a written text cannot achieve. Thus, from the time of its revelation until the second century C.E., despite widespread literacy among the Jews, the Oral Law remained just that. To reduce it to writing would indeed have been to reduce it. To paraphrase Edmund Burke, if there was no reason to write it down, there was a reason not to write it down.

But during the Roman occupation of Israel—an occupation arguably more hazardous to the Jewish people than the Nazi Holocaust, because it sought the spiritual, rather than merely the physical destruction of the Jewish people—there was a genuine threat that the *mesorah*, the chain of tradition, would be irrevocably broken. In response to this unprecedented threat, Rabbi Judah the Prince organized and wrote down a large part of the Oral Law. This text became known as the Mishnah (Hebrew for repetition, or instruction).

The Mishnah became the subject matter for academies of study in the occupied territories (which the Romans called Philistia—Palestine—after its former occupants, the Philistines, as an insult to the Jewish inhabitants) and in the Babylonian diaspora. Each academy produced its Gemara (Aramaic: completion), an elucidation and commentary on the Mishnah. Thus were created the Palestinian and Babylonian Talmuds. The Babylonian version took a hundred years longer to complete, and is universally recognized as the more polished and scholarly of the two texts.

The Talmud is not merely an explication of the written Torah. It also includes philosophical speculation, discussion of etymology, recipes for medicinal remedies, anecdotes concerning biblical figures, astronomical observations, and even advice concerning one's sex life.

Insults, too, may be found in the Talmud. It is telling that the object of the insult is usually the antagonist's learning or his teacher, just as modern insults often target the antagonist's appearance or his mother. In both cases, the chief pride and the closest interpersonal relationship are the tenderest targets for attack. One scholar quoted in the Talmud dismissed the reasoning of the other with a brusque, "Your teacher was a reed cutter in a swamp."

All this and more is the subject matter of the Talmud. After all, what can be excluded from the Talmud, if it is a reflection of the revelation of the One who created us and the universe we live in?

The most important function of the Talmud, however, the feature which makes its study a religious rite, is that it seeks to establish the halakhah, the details of the divinely revealed law that govern the life of a Jew. Thus, it is second only to the Bible itself in authority. This is the reason the Talmud has been the subject of intense study by every generation of Jews from before its ink was dry until the present day.

The Jew-hater, too, knew the importance of the Talmud to Jewish life. When they could not destroy the Jews themselves, the enemies of the Jews turned against the Talmud. Public burnings of the Talmud were ordered in 1242 (Paris), 1553 (Rome), 1559 (Cremona), and 1757 (Poland). After the fall of the Nazi and Soviet regimes, the Talmud is no longer the target of destruction by political authorities. Now the Gordian text itself is its own chief hurdle.

The world of the Talmud is one of razor-sharp analysis. The following example may suffice to give a flavor of it. The Talmud describes the thirty-nine categories of labor that are forbidden on the Sabbath. These are derived from the types of activity needed to build the portable Tabernacle used by the Hebrews in the desert after their miraculous escape from bondage in Egypt. One of the forbidden labors is harvesting, since dyes required for the curtains and skins were of herbal origin.

The Torah explicitly states that a purposeful violator of the Sabbath will be punished differently from one who violates the Sabbath inadvertently. The distinction between willful and accidental violations of the law is a concept enshrined in Western law, too, so this does not seem strange to us. But the subcategorization of inadvertence in Talmud is so refined that there literally is no vocabulary in English to correspond with the Talmudic analysis.

For example, one may violate the Sabbath inadvertently because he did not realize that the day was the Sabbath. Alternatively, he might have known that the day was the Sabbath, but had been unaware that harvesting was forbidden on that day. Yet again, it is possible that he knew it was the Sabbath and that harvesting was forbidden, but was unaware of the severe penalty that is meted to one who intentionally violates the Sabbath; this too is a type of inadvertence.

Perhaps he meant to lift up from the ground a

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plant that was not attached to the soil (this is clearly allowed) but by negligence his hand slipped and he plucked a different plant from the soil. Another variant of inadvertence: he intended to violate the Sabbath by harvesting a particular plant, but carelessly harvested one he did not want. This, too, is not exactly willful violation of the Sabbath.

Finally, the Talmud discusses the case of a Jew whose violation occurs because, although he knows of the existence of the Sabbath, he is unaware that work is forbidden on the Sabbath. The Talmud asks, in what sense, then, can we say that he knows that the Sabbath exists? The reader who wants to know the answer to that question has cravings that a mere essay cannot fill. I advise him the same way Hillel concluded his famous advice to the Roman who asked that he teach him the Torah while standing on one foot: "That which is hateful to you, do not do to your fellow. The rest is commentary." Then Hillel added, "Now go and learn."

The sense of man standing before his Creator suffuses the Talmud. It may go unstated for lengthy passages, but it underlies the whole work as surely as the atomic theory underlies all chemistry and physics. God has created man, and given him a blueprint upon which to base his relationship with his Maker and with his fellows. The rabbis of the Talmud were able to develop a completely integrated legal and philosophical system based on the Torah and the Oral Law, for they needed no instructions other than the original "user's manual."

Adin Steinsaltz is an Israeli scholar who is also producing an English translation of the Talmud. Although I prefer the Schottenstein Edition, the Steinsaltz Talmud includes a marvelous introductory volume that is of value to English-speaking students using any translation. In an earlier work, *The Essential Talmud*, Steinsaltz described the Talmudic mindset underlying some of its laws that may strike us as strange:

> It is interesting to note that the halakhah differentiates in a most unusual way between theft and robbery. The thief sometimes pays a fine, but the robber who takes openly and by force is merely obliged to restore the object or its equivalent in cash. The talmudic explanation is intriguing: the robber is preferable to the thief since he acts openly, and his attitude toward God, in transgressing against his commandments and committing a robbery, is equal to his attitude toward his fellow men, from whom he steals openly, without fear and shame. The thief, on the other hand, demonstrates that he fears men more than he fears God, since he hides himself from his fellow men but not from the Almighty; he therefore deserves to be fined.

"Talmudic logic" has often been used as a disparaging phrase, usually by people who have never even seen a tractate of Talmud, to say nothing of having labored over it. What they mean is needless argumentation and hair-splitting. What the critics of Talmud fail to perceive, however, is that the subject matter of Talmud, no less than that of science, is all of reality. No amount of analysis is wasted if it reveals a truth of the world or of the law given to us by God. It is no surprise, therefore, that the closest comparison to Talmudic logic is scientific analysis, in particular mathematics. In his small masterpiece, *Proofs and Refutations: The Logic of Mathematical Discovery*, Hungarian mathematician Imre Lakatos shows that even a discipline supposedly as pure as mathematics may be the subject of argumentative attack and counterattack, with shifting definitions and concepts affecting the global analysis of the mathematical problem at hand. Readers who don't want to tackle the Talmud may get a flavor, at least, of its logic by rummaging through Lakatos' work of mathematical logic. (I am reminded of the joke about the Yeshiva dean who tried to comfort the mother of one of his students. She was unhappy because her son had left postgraduate studies in physics at Harvard to study the Talmud. "Don't worry," said the dean, "if Talmud proves too difficult for him, he can always go back to nuclear physics.")

In science, the experimental data are the "given" to which the theory must conform. All goes well, albeit predictably, in science, until a datum is generated that contradicts the established theory. It is simplistic to think that this datum automatically creates a paradigm shift in the science. First the experiment must be repeated; maybe there was a technical error in the conduct of the first study. Other studies must be performed specifically designed to probe the point of conflict between the expected result and the new surprising one. Even if the old theory is forced to yield, it almost never does so completely. Most often, it is modified at the edges. For example, Einstein's special theory of relativity did not completely overturn Newtonian mechanics, but it revealed it to be merely an excellent and useful approximation for describing the motion of objects traveling at substantially less than the speed of light.

In the Talmud, the "givens" are the nuggets of Oral Law recorded in the Mishnah and elsewhere. When they seem to be in conflict, the underlying accord must be discovered. On rare occasions, the Oral Law is discovered to have been transmitted incorrectly, analogous to a physicist finding that the measurement he thought was in centigrade was really in Fahrenheit, and he has discovered not a new law of physics, but simply the error in his experiment. Because the Oral Law of the Mishnah is recorded so tersely, the exact situation to which it refers is often unclear, and needs to be elaborated by analysis of how this law apparently conflicts with others. If the Talmud had as its subject matter

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modern medicine instead of Torah, it might read something like this:

> Doctor Abel says that penicillin is good for a cough. Doctor Baker says that penicillin is bad for a cough. Both are reliable authorities. How can this disagreement be? Doctor Charles says that Doctor Abel is referring to a cough due to pneumonia, and that Doctor Baker is referring to a cough due to lung cancer. But Doctor Doe has seen cases of pneumonia that don't improve with penicillin, and he has heard from Doctor Evan that Doctor Frank once saw a patient with pneumonia die shortly after receiving penicillin. Clearly, Doctor Charles must be referring to cases of pneumonia due to penicillin-sensitive bacteria, and Doctor Frank must be referring to a patient who was allergic to penicillin. Did Doctor George report a case of lung cancer whose cough improved with penicillin? Doubtless, that patient had pneumonia too. (And so on.)

Because the scientific discipline of medicine describes various perturbations in an exquisitely coordinated complex system, we expect that apparently divergent observations (such as "penicillin is good for a cough" and "penicillin is bad for a cough") have an underlying unity. We expect the conflict to be resolved by the revelation that in fact we are dealing with different situations. Similarly, in Talmud, because there is one creator of the universe and one revealer of the law, there must ultimately be an internal consistency between the world and the law, and among the laws themselves. The underlying unity of creation and revelation leads us to expect an internal consistency in halakhah. The job of the Talmud is to discover that unity.

In modern times, one who has never begun the study of the Talmud must surely find the prospect intimidating. Imagine sitting down to read—and not just read, but to *learn*—the Encyclopedia Britannica. Who can accomplish such a gargantuan task? Those who have done it have jokingly compared it to eating an elephant: no problem, really—just take one bite at a time.

Rabbi Meir Shapiro of Lublin institutionalized the one-bite-a-day approach. In 1922 he proposed that every Jew learn at least one *daf*, one double-sided page, per day, and he laid out a schedule for the learning. In just seven and a half years, he said, you could learn the whole Talmud. (And the next day, of course, you could start the project again.) Thus was born the Daf Yomi (*daf* a day) project, in which tens of thousands of Jews all over the globe, coordinated but without a coordinator, learn the same page of the Talmud every day.

In September 1997 participants in the tenth cycle of the Daf Yomi celebrated the completion of their study, and on the next day the eleventh cycle began. The celebrants in New York overflowed Madison Square Garden. In America alone there were over seventy thousand participants, and there were tens of thousands more in other major cities throughout the world.

I joined the eleventh wave as it began last fall. In doing so, I faced several handicaps. I have never attended a Yeshiva, and in fact was raised in a home marked more by Jewishness than Judaism. My knowledge of Hebrew was feeble, that of Aramaic virtually nonexistent. Ideally, one should have a partner to learn with, but I could not expect any study partner to join me in learning at the only time available to me, late at night after I have put my young children to bed.

I was not completely unacquainted with Talmud, however. Years ago I attended a Talmud study class conducted by the late Rabbi A. H. Lapin (father of conservative—in the political, not the sectarian sense of that word—Rabbi Daniel Lapin, founder of the religious/political lobby *Toward Tradition*). Rabbi Lapin *père* used to say that the only prerequisites to be a student of his were character and intelligence. Assuming I had those qualities, I'm afraid I offered him little more to work with. I was like one the Torah describes as not even knowing how to ask a question. With great hope and faith, he selected for my fellow bachelor study partner and me the tractate of Talmud that deals with betrothals and marriages. He opened it to the first page, pointed to the first word, and simply said, "Read."

"I don't know how," I replied.

"Read," he repeated patiently.

"But I . . ."

"Read," he said again with a smile.

For some bizarre reason, at that very moment, I thought of the Koran, with which I was then more familiar. Islamic tradition describes how the angel Gabriel revealed the Koran to the illiterate Muhammad with the same one word command. I thought to tell Rabbi Lapin about the similarity of my experience with that of Muhammad. But in a rare exercise of prudence, I thought better of that idea, and instead I . . . read.

Clearly, the brief time I had spent learning with Rabbi Lapin was not adequate to prepare me for independent study of the text in the original language. On the other hand, a simple translation, no matter how faithful to the original, would be nearly as mystifying as the foreign language text. The extreme terseness of the text, as well as the assumptions it makes concerning the knowledge of the reader, precludes that approach. It is as if Rabbi Judah, and the later generations of scholars who created the Gemara, had begrudgingly committed the Oral Law to writing in minimal fashion, so that even the written form would require an oral tradition for

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its explication.

My need in this regard is not unique, and in recognition of the demand for such a book, Mesorah Publications, Ltd., has embarked on a truly landmark edition of the Babylonian Talmud. The Schottenstein Edition was so named originally as a memorial to the parents of one of the major donors underwriting the project. With the untimely passing of philanthropist Jerome Schottenstein, it is now dedicated to his memory too. It is described as "an annotated interpretive elucidation." While not a substitute for learning with a Talmudic scholar, it wonderfully succeeds in its goal of making the Talmud accessible to the English speaker who cannot learn independently from the original text. By no means is it the definitive commentary on the Talmud—as if such a thing could exist—but I believe that this is the definitive English translation.

An example will demonstrate the terseness of the original text and the value of the interpretive elucidation. The first tractate of the Talmud, *Berachos*, deals mainly with the details of blessings required in various circumstances. As in all the tractates, however, digressions are common. Several pages, for example, are devoted to the interpretation of dreams. One sage is quoted as saying that if a dream portends a future event, even though part of it may be fulfilled, not all of it will be fulfilled.

The Gemara then gives the source for the sage's comment. In a literal translation of the Talmud the next few lines would have read, "From where do we know? From Joseph. For it is written: and behold the sun and the moon, etc. Yet at that moment his mother was not alive."

The Schottenstein edition, however, translates it as follows: "**From where do we know** this to be true? **From** the scriptural story of **Joseph** and his dreams. **For** concerning Joseph's dream, **it is written: and behold the sun and the moon, etc.** [and eleven stars were bowing down to me]. Now in this dream, the "sun and the moon" were taken as a reference to Joseph's parents, and the "eleven stars" were taken as a reference to his eleven brothers. The dream foretold, then, that Joseph's father, mother, and eleven brothers would eventually bow down to him. **Yet at that** very **moment** that Joseph dreamed this, **his mother was no** longer **alive;** hence, the complete realization of the dream was an impossibility." Further insight into this passage is then given in the footnote, along with reference to the seemingly inevitable dissenting opinions.

The translators/elucidators take pains to distinguish between what is merely translation and what is elucidation. The classic Vilna edition of the original text is reproduced on one page, while opposite it appears the English version. A phrase in the original Hebrew or Aramaic is reproduced—with vowels, thank heaven!—on the English side, and immediately followed by the English text. Translation of the text appears in boldface, while elucidation is in ordinary font.

Since the English version is far wordier than the Hebrew/Aramaic, no page of the original can be translated on only one page opposite it. An unobtrusive vertical gray mark in the margin of the Hebrew/Aramaic side shows which portion of that particular page is translated on the opposite face.

Extensive footnotes appear on the bottom of each English page. These include, but by no means are limited to, the insights of the essential eleventh-century commentator Rabbi Shlomo Yitzchak, known universally in the Talmud world by the acronym Rashi. The footnotes come in two forms. Some explain or summarize the discussion to which they refer. Others, like the teacher in an advanced seminar, merely refer the reader to citations in other commentaries whose analysis supplements or contradicts that taken in this text.

Each volume is prefaced with a brief essay explaining the critical issues discussed within. Reference is always made to the biblical text whose interpretation is the subject of discussion, and often dispute. A glossary of terms is found at the end of each volume.

As of this writing, roughly half of the thirty-seven tractates have been published. The publishers promise to produce future ones in time for participants of the Daf Yomi. The whole project, then, should be completed by 2004.

As long as there are Jews there will be Talmud study, because the reverse of that statement is also true. The Schottenstein Edition of the Babylonian Talmud provides superb access to the text for those who have intelligence and character, even if they do not even know how to ask a question. FT

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# Life, Law, and Suicide

*The following excerpt is taken from a 1997 supplement of the New York State Task Force on Life and the Law to its highly influential 1994 report "When Death Is Sought: Assisted Suicide and Euthanasia in the Medical Context." The original report has been widely quoted and was cited by the Supreme Court last year in the decisions rejecting the claim of a constitutional right to assisted suicide. The supplement offers a synopsis of the dangers involved in the legalization of assisted suicide.*

—The Editors

The Ninth and Second Circuits [whose decisions were heard by the U.S. Supreme Court last year] both dismissed the risks associated with legalizing physician-assisted suicide as insubstantial, and claimed that, to the extent risks exist, they can effectively be eliminated through state law or regulation. Our concerns about the risks of legalizing assisted suicide are set forth in detail in "When Death is Sought," and will not be restated in depth here. We take this opportunity, however, to outline briefly the primary risks associated with legalization:

*Undiagnosed or untreated mental illness.* Many individuals who contemplate suicide—including those who are terminally ill—suffer from treatable mental disorders, most commonly depression. Yet physicians routinely fail to diagnose and treat these disorders, particularly among patients at the end of life. . . . If assisted suicide is legalized, many requests based on mental illness are likely to be granted, even though they do not reflect a competent, settled decision to die.

*Improperly managed physical symptoms.* Requests for assisted suicide are also highly correlated with unrelieved pain and other discomfort associated with physical illness. Despite significant advances in palliative care, the pain and discomfort that accompany many physical illnesses are often grossly undertreated in current clinical practice. If assisted suicide is legalized, physicians are likely to grant requests for assisted suicide from patients in pain before all available options to relieve the patient's pain have thoroughly been explored.

*Insufficient attention to the suffering and fears of dying patients.* For some individuals with terminal or incurable diseases, suicide may appear to be the only solution to profound existential suffering, feelings of abandonment, or fears about the process of dying. While the provision of psychological, spiritual, and social supports—particularly, comprehensive hospice services—can often address these concerns, many individuals do not receive these interventions. If physician-assisted suicide is legalized, many individuals are likely to seek the option because their suffering and fears have not adequately been addressed.

*Vulnerability of socially marginalized groups.* No matter how carefully any guidelines for physician-assisted suicide are framed, the practice will be implemented through the prism of social inequality and bias that characterizes the delivery of services in all segments of our society, including health care. The practices will pose the greatest risks to those who are poor, elderly, isolated, members of a minority group, or who lack access to good medical care.

*Devaluation of the lives of the disabled.* A physician's reaction to a patient's request for suicide assistance is likely to depend heavily on the physician's perception of the patient's quality of life. Physicians, like the rest of society, may often devalue the quality of life of individuals with disabilities, and may therefore be particularly inclined to grant requests for suicide assistance from disabled patients.

*Sense of obligation.* The legalization of assisted suicide would itself send a message that suicide is a



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socially acceptable response to terminal or incurable disease. Some patients are likely to feel pressured to take this option, particularly those who feel obligated to relieve their loved ones of the burden of care. Those patients who do not want to commit suicide may feel obligated to justify their decision to continue living.

*Patient deference to physician recommendations.* Physicians typically make recommendations about treatment options, and patients generally do what physicians recommend. Once a physician states or implies that assisted suicide would be "medically appropriate," some patients will feel that they have few, if any, alternatives but to accept the recommendation.

*Increasing financial incentives to limit care.* Physician-assisted suicide is far less expensive than palliative and supportive care at the end of life. As medical care shifts to a system of capitation, financial incentives to limit treatment may influence the way that the option of physician-assisted suicide is presented to patients, as well as the range of alternatives patients are able to obtain.

*Arbitrariness of proposed limits.* Once society authorizes physician-assisted suicide for competent, terminally ill patients experiencing unrelievable suffering, it will be difficult, if not impossible, to contain the option to such a limited group. Individuals who are not competent, who are not terminally ill, or who cannot self-administer lethal drugs will also seek the option of physician-assisted death, and no principled basis will exist to deny them this right.

*Impossibility of developing effective regulation.* The clinical safeguards that have been proposed to prevent abuse and errors are unlikely to be realized in everyday medical practice. Moreover, the private nature of these decisions would undermine efforts to monitor physicians' behavior to prevent mistakes and abuse.

## Remains

A house alongside the road
has been gutted; a few remains
of the furnishings—wallpaper, toasters, beams—
peak out amid the empty wounds
where the building gave up its ghost
like an old man opening wide for one last breath—
only the fire here opened
every mouth, all over the body
a gash in the knee, a sick smile in the gut
a fantastic crying in the roof—

I knew this house—much of a muchness
with the others hutched along its stretch
of road I must have passed
its yellow teeth (pleasantly hid
behind blank window glass) like a smile on a bus
conductress's usual route: then gone.
We do not know when things will come
to an end. The up escalator
stops abruptly—and the figures at the head
disappear from sight—like cigarette ash
tipped, without warning by the intook breath
lurch of a hand—nothing survives of us but roads
taken every day without the sight of love
and a few small effects gathered by the lovers we have calmed.

**Atar Hadari**

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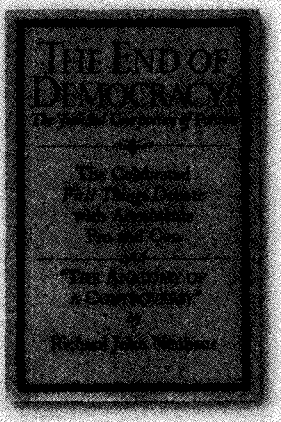

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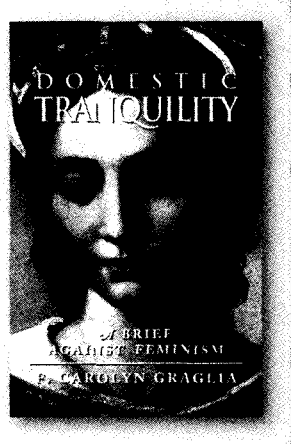


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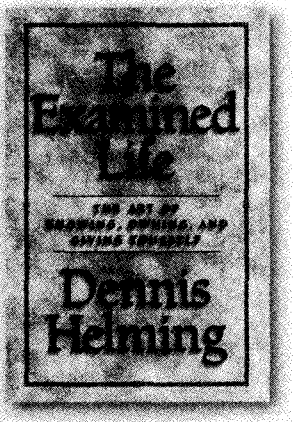


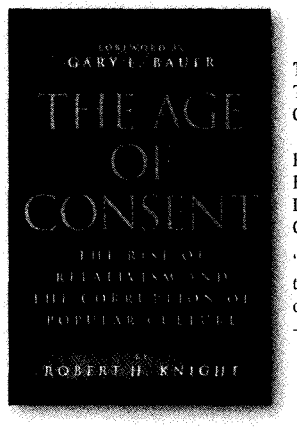


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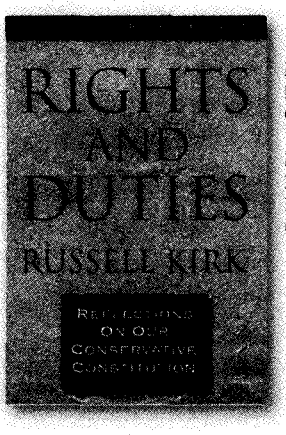


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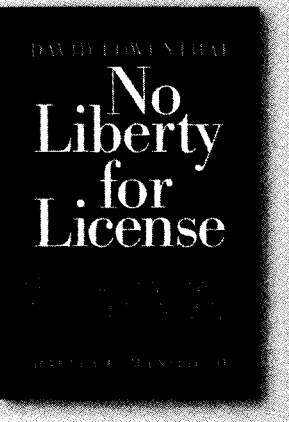


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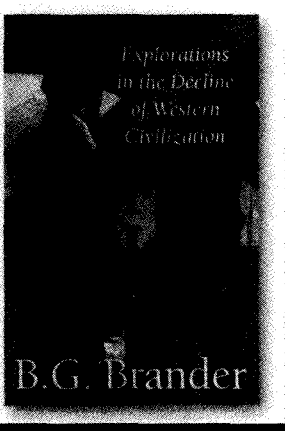


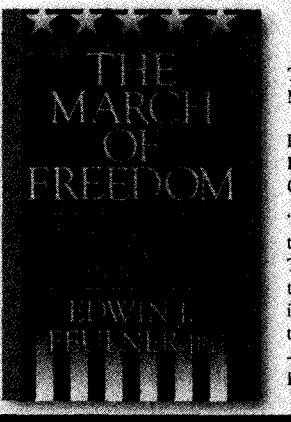


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# Books In Review

## The New Populism

**THE GREAT BETRAYAL.** By PATRICK J. BUCHANAN. *Little, Brown. 384 pp. $22.95.*

***Reviewed by*** **Andrew J. Bacevich**

READERS OF A certain age will recall when the tariff seemed the very stuff of American history. So at least we were led to believe. Once the standard textbook narrative got past 1865, arcane controversies over trade policy supplanted freedom as the dominant theme of American history. For generations of perplexed schoolchildren, distinguishing between the Dingley Tariff (1897) and the Payne-Aldrich Tariff (1909) or between the Underwood Tariff (1913) and the Fordney-McCumber Tariff (1922) numbered among the fundamentals of civic literacy, not to mention the prerequisites for advancing to the next higher grade.

This quirky, deeply flawed, but important book revives that perspective. In it, Patrick Buchanan ascribes the ills afflicting contemporary America to the abandonment of the traditionally high tariffs that, in his recounting, made the United States a great nation. In the decades since World War II, this embrace of free trade has resulted in "the industrial disarmament of the United States." Other nations have grown wealthy at America's expense, pouring goods into the lucrative U.S. market while unfairly excluding American exports. As a result, the manufacturing sector that as late as the 1940s and 1950s still provided high-paying jobs to the working class has collapsed. The subsequent rise of a high-tech service economy has created a spectacularly wealthy new class of "Third Wave Americans" who, abetted by agents in both political parties, peddle the elixir of globalization. But these bankers, lawyers, lobbyists, entrepreneurs, journalists, and academics are enriching themselves at the expense of the mass of average Americans: that is Buchanan's "great betrayal."

In his view, the consequences of that betrayal go far beyond mere wealth and poverty. Free trade nullifies national sovereignty, aggravates class conflict, and undermines traditional morality. By keeping the world at arm's length, the protective tariff had permitted Americans to erect their City Upon a Hill. By fostering a robust manufacturing sector at home, it had created an immense middle class composed largely of traditional, God-fearing families in which Dad was the sole breadwinner and Mom stayed home to raise the kids. In this sense, writes Buchanan, protectionism "was about justice and patriotism." Reestablishing the just economic order to which the tariff gave birth "is a precondition of the restoration of the moral order."

FREE TRADE, according to Buchanan, is alien to American ideals. The very idea is itself "a foreign import." Early advocates of free trade tended to be "pacifists and atheists," alienated intellectuals "possessed of a deep animus toward church, state, and empire." For Buchanan, free trade is a "first cousin to Marxism." (He finds it significant that during the pivotal decade of the 1940s, the executive chairman of the Citizens Committee for Reciprocal World Trade was none other than Alger Hiss.) Today's advocates of economic globalization are similarly suspect, offering a Faustian bargain in which "a nation sells its soul for a cornucopia of foreign goods." Honoring only the bottom line, Third Wave Americans are willing to "betray everything the Founding Fathers stood for, fought for, died for."

Buchanan's strategy for restoring the economic and moral order of the Founders is nothing if not provocative. First, he would institute an across-the-board 15 percent tariff on imports, Canada alone excepted. Next he would abandon the World Trade Organization, abrogate the North American Free Trade Agreement, and withdraw from the International Monetary Fund and the World Bank. He would terminate foreign aid and cancel plans to expand NATO. He would bring the troops home from Europe and deploy them along our borders to put an end to illegal immigration. Finally, for good measure, he would introduce a national sales tax in lieu of the income tax, thereby eliminating the IRS.

Early reviews have taken Buchanan to task for faulty economic analysis. Indeed, as history or as a handbook for economic policy, the book's defects are legion. Yet to dismiss it on those terms is to overlook its significance as a polemic. However imperfectly, *The Great Betrayal* peels back the polished veneer of establishment politics and offers a glimpse of what lies beneath: a democracy in an advanced state of disrepair.

A long-time Nixon loyalist, arch-conservative commentator, and Republican presidential candidate, Buchanan now identifies himself as a populist. Indeed, his insistence that a protective tariff will pave the way for moral and political revitalization is analogous to the fervor of populists a century ago who believed that the coinage of Free Silver would correct the inequalities produced as a byproduct of industrialization.

THE POPULISTS OF the 1890s were wrong about the money supply. The populists of the 1990s are wrong about trade. Yet to say that populists of whatever era tend to make lousy economists is not to say that their complaints are without foundation. The infatuation of the original populists with Free Silver did not invalidate their critique of modern industrial capitalism. The tendency of latter-day populists to

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see the WTO and NAFTA as part of a shadowy conspiracy of arrogant elites should not dissuade us from attending carefully to their discontent.

The fact is that the much-celebrated process of creating a global economic order is leaving by the wayside a considerable number of American citizens. These are the castoffs for whom successive waves of consolidation, downsizing, and restructuring have meant the loss of jobs, status, and self-respect. Less visible than these unfortunates is a much larger number: those who seemingly manage to keep up, but who view the ongoing change in our everyday life with a deep and growing sense of unease.

In a profound insight, Buchanan identifies the anguished and the left behind as "the rooted people"—rooted, like the populists of old, in place and time, adhering to received truths, clinging to traditional folkways. The rooted people identify with what is familiar and close at hand. They value continuity over change. They are instinctively patriotic and nationalistic. They view with suspicion the outsider and the cosmopolitan. When it comes to translating grievances into political platforms, they are not articulate and may too easily fall prey to appeals to a utopian past.

These are Buchanan's constituents, the millions he would mobilize under the banner of a New Populism and with whose support he proposes to mount a counterrevolution. It is a stirring, even inspirational summons that points unerringly to a dead end. Buchanan's New Populism will fail not because he misapprehends the phoniness of what currently passes for "good times"—the potential for grassroots upheaval is real enough—but because in attacking free trade he has set off in pursuit of the wrong culprit.

Buchanan would have his readers believe that, at root, the problems of the world's most affluent nation are economic—that a redistribution of wealth will cure what ails America. It is up to the federal government, in his view, to put paid to the Great Barbecue of the 1990s, to impose restrictive new rules governing economic activity, and to abandon our hegemonic pretensions. Surprisingly, for an old conservative stalwart, he ascribes to Washington a capacity for enlightened governance that outstrips by several orders of magnitude what we have come to expect.

No less significantly, he underestimates the impact of the economic transformation underway for the past several decades. That transformation is irreversible: a policy of national autarky is neither feasible nor desirable. (Buchanan tacitly acknowledges as much, calibrating his 15 percent tariff so as to be "high enough to generate a powerful stream of revenue, but low enough not to destroy trade.") Above all, however, Buchanan's analysis falls short of the mark in his unthinking deference to the market, artificially confined to North America above the Rio Grande, as a mechanism to correct growing political, social, and moral problems. The real populists at least understood that the market—industrial capitalism—was itself part of the problem.

THUS, FOR ALL of its trappings of radicalism, Buchanan's is a limp, derivative critique that shrinks from reaching genuinely sweeping implications. Buchanan places the inflammatory rhetoric of 1890s populism at the service of economic policies out of fashion since the 1930s in hopes of restoring his Golden Age of the 1950s. What purports to be a bold political pronouncement is actually a sterile exercise in nostalgia. The times may in fact demand a populist critique, but *The Great Betrayal* falls well short of the mark.

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SUBVERSIVE VIRGINITY

# Resisting the Sovereign

**THE DISSENT OF THE GOVERNED: A MEDITATION ON LAW, RELIGION, AND LOYALTY.** By STEPHEN L. CARTER. *Harvard University Press. 167 pp. $19.95.*

***Reviewed by*** **Russell Hittinger**

THIS SPRING the American media gave considerable attention to critics of the Vatican statement on the Holocaust, "We Remember." A conspicuous line of criticism was that the Vatican, by opting for quiet diplomacy and covert aid to some Jews, was complicitous in the unjust acts of the fascist governments. Pope Pius XII's failure of conscience was in his refusal to publicly disobey. A *New York Times Magazine* article on the subject went so far as to question what Karol Wojtyla was doing in Krakow during the Nazi occupation. Was he too quiet in the face of injustice?

The same week that the Sunday *Times* ran the article on the need for papal atonement for not defying the German government, a *Times* editorial gave at least mild approval to the criminal conviction of pro-life leaders under the Racketeer Influenced and Corrupt Organizations Act (RICO). The pro-lifers were found guilty of conspiratorial networking to threaten property and to attempt extortion. The federal court rejected the defendants' defense that they acted on a "moral imperative" to protect the rights of innocent third parties. They were not seen as mere civil disobedients, perhaps to be punished for having broken laws in the name of conscience, but were deemed racketeers, gangsters, terrorists.

What lesson can we draw? Had Pius XII defied the government, and been hanged by the Gestapo, he would be esteemed a hero of conscience. Today, were one of the bishops to take the much less radical step of inciting protests against abortion clinics—not for the pur-

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pose of defying the regime, but of challenging the law—he could be considered a gangster. So could Martin Luther King and the SCLC, whose sit-ins and strikes made small businesses in the South pay an economic price for racial discrimination.

IN *Dissent of the Governed*, Stephen Carter points out that Americans do not believe in political trials. So, what is to be done with religious dissenters who protest the sovereign's understanding of the social contract? We cannot treat them as traitors and political subversives because that would come uncomfortably close to political trials. On the other hand, they cannot be regarded by analogy to the civil rights movement, because that would leave open the possibility that the sovereign is wrong. Nor does it seem quite right to say, "America—Love it or Leave It," which of course triggers some unwelcome memories. The current response is, according to Carter: "Get some new laws! RICO 'em!" He contends that the rough treatment of pro-life activists is but one example of the increasingly serious conflict between religious conscience and "liberal constitutionalism."

*Dissent of the Governed* covers some of the same ground as the author's earlier book, *The Culture of Disbelief* (1993), where Carter showed how the governing class misunderstands and, at law, misrepresents religion as one lifestyle option among others. Carter argued that we cannot understand why the framers of either the federal or state constitutions would have troubled themselves to recognize special rights of religion were it put on the same level with, let's say, alpine hiking or massage therapy. The new book explores what happens when that misunderstanding prevails and believers are put into the position of dissent.

The new book is based on a set of lectures given at Harvard during President Clinton's first term. Carter explains that the immediate background was the Branch Davidian debacle at Waco, the bombing at Oklahoma City, the militia movement, and the 1994 midterm congressional election. For his Cambridge audience, Carter wants to give an ominous report from the front: "I worry that the country is in the throes of a massive act of disallegiance, of which the 1994 elections were but the merest spasm." Given the political hibernation of the body politic since those headlines, the warnings about angry disobedience now seem a bit silly. But Carter's argument transcends the headlines.

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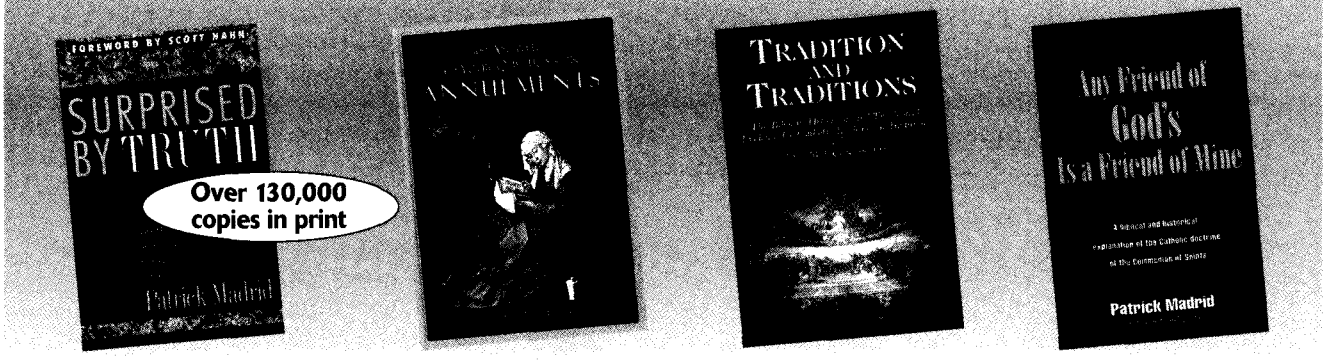
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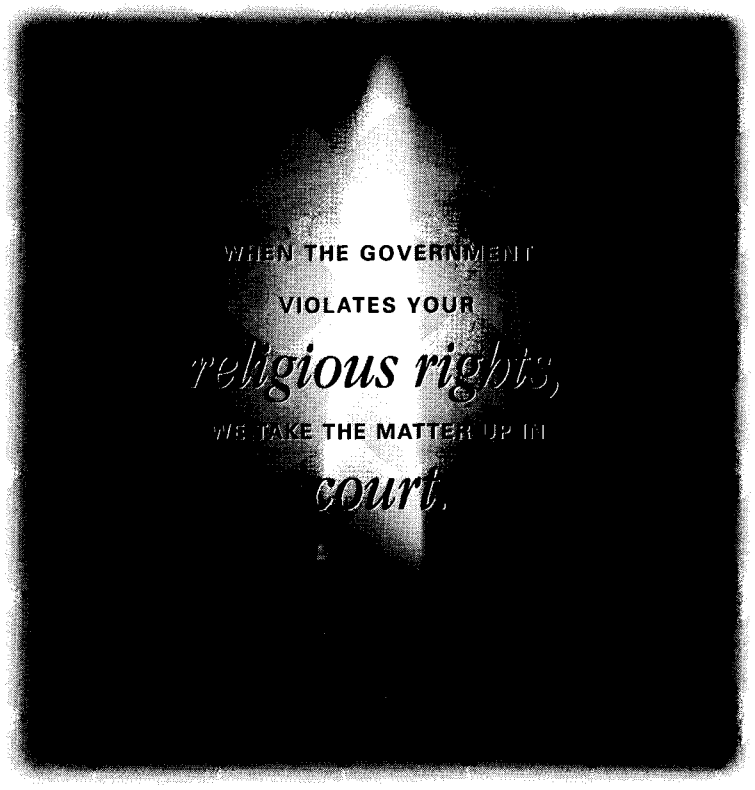
drawn from the Declaration of Independence, where we find the principle not only of the consent of governed, but also the dissent of the governed: "We have petitioned for redress in the most humble terms: Our repeated petitions have been answered only by repeated injury. A prince, whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people." Here, the colonists were not merely waxing philosophical, but were making a specific charge against the government: by answering the colonists' petitions for redress of grievance with further injury (more taxes, interference with legislatures, and ultimately the criminalization of dissent), the Crown justly lost the allegiance of the governed.

CARTER PROPOSES THAT one important measure of the legitimacy of our regime is how it treats dissenters. Imagine now that we are speaking of the Court rather than the Crown. Are petitions for redress, he asks, met with further governmental acts and laws that have the effect, if not the purpose, of silencing the voice of dissent? Carter answers, yes. Liberal constitutionalism has evolved in a way such that the government again answers petitions with further injury, and with new rules that put the dissenter outside the bounds of permissible political debate and action. Carter argues that the law of the "liberal sovereign" tends to be "totalizing," becoming a kind of "fundamentalism" that hears no voice but its own. We shouldn't be surprised, he points out, that religion would end up on the wrong side of this development.

Carter traces the problematic development of liberal constitutionalism to two things, neither of which pertains immediately to religious issues. First, the U.S. government has evolved into a government of general jurisdiction, its powers limited chiefly by judicial interpretations of the Bill of Rights and the Fourteenth Amendment. Carter notes that "the liberal constitutional project has effectively stripped local political sovereigns of the structural ability to resist the national sovereign's decrees." Thus, a group that thinks it is getting a raw deal from the government has few options. As Albert Hirschman pointed out in *Exit, Voice, Loyalty* (1970), institutions respond to complaints insofar as critics have either exit or voice. Exit is especially effective. In the economic market, one can buy a different product; in politics, one can move to a different jurisdiction, or join a different party. But when the opportunity for exit is restricted, voice becomes all the more important.

THIS BRINGS US to Carter's second point. Our liberal polity has

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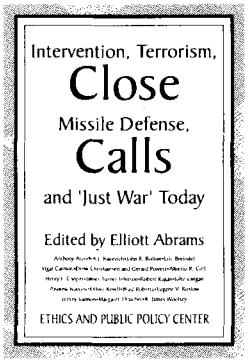


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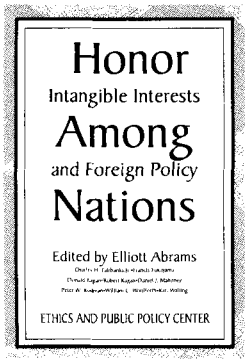


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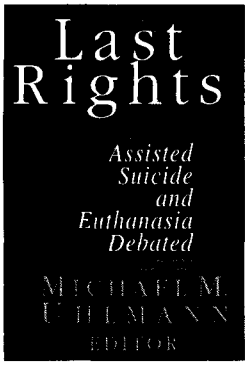


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evolved in such a way that "voice" is funneled into one set of ears—the federal courts. The problem with this kind of constitutional politics is that the loser loses everything. Once one side wins the power of having its view embedded in the social contract, arguments to the contrary need not be answered on their merit; one already has a reason for dismissing critics on constitutional grounds, even when these decisions involve controversial matters of civil liberties. Just mounting a complaint betokens a bad will which, when tested, invites the courts to tighten and extend the grip of the law in further decisions.

Carter speculates that Americans are not more sympathetic to losers in this game because they believe the myth that the courts are not the sovereign. Everyone acknowledges that executive and legislative branches are organs of governing, but courts are usually thought to be a check upon the government—the rule of law is thought to check the power of the sovereign.

Carter punctures this myth by recalling the conflict between civil rights leaders of the 1960s and the courts. When Martin Luther King was writing from Birmingham Jail, he was incarcerated for having violated an *ex parte* court order; many otherwise sympathetic clergy were scandalized by his defiance of a court. When he appealed to the Supreme Court, complaining that he was denied the right to make a defense showing the law itself to be unconstitutional, the Court brusquely responded that "respect for judicial process . . . *alone* can give abiding meaning to constitutional freedom." King rejected this doctrine of *sola fide* with respect to what courts deem the rule of law.

WHAT HAS THIS to do with religion? If, as Ronald Dworkin says, the courts are the capitals of law's empire and the judges its princes, America has become an empire that knows "nothing of Joseph" and his former services. While few wish to admit the fact, the voice of religion has been written out of its traditional role in American democracy, at least for now. Carter correctly points out that when disaffected religious citizens are told to take their case on abortion, school prayer, family planning, or whatever to the public forum, the recommendation is not sincere because liberal constitutionalism holds both in theory and practice that these things "should be outside the realm of politics." Increasingly, believers retain their right of free exercise only when they repackage their claims in terms of free speech or privacy. And, as pro-life activists have been reminded, the sovereign will not necessarily think that suppressing protests against abortion constitutes a "chilling effect" upon

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# Introducing

# Hell, Air-Conditioned!

Word has come in from the Anglican Doctrine Commission in England that Hell is merely "nonbeing" — kinda like Nirvana, maybe. No more "unquenchable fire," no more "wailing and gnashing of teeth," which that mean-spirited Jesus has been scaring people with for almost 20 centuries!

Now, if Hell is painless, an eternal sleep on a bed of roses, then you can sin to your heart's delight without anxiety. You're liberated! Let Goody Two-Shoes deny himself naughty pleasures in this life so he can get into Heaven in the next — *if* there is a Heaven. You'll take the bird in hand over the two that might — or might not — be in the bush.

Quite seriously, folks, if Hell is a piece of cake, and if Jesus is the Savior, then He's a pretty piddling Savior, for He hasn't saved us from anything worth fearing. After all, the immoral nonbeliever *expects* "nonbeing" after he dies — that's exactly what will please him.

However, Catholicism still teaches that Hell is hot and horrid — you can look it up in the new *Catechism*.

But much of Catholicism has become fluffy and superficial in the last few decades. Not many priests warn of Hell anymore. Of course, it stands to reason that a breezy, lightweight Catholicism would give us an air-conditioned Hell, and so it has.

Now, if Hell is a non-issue, why evangelize? No wonder our zeal for souls has cooled off. And why be good? No wonder Catholics have abortions at about the same rate as the rest of the population. And why even bother to go to church? No wonder church attendance among Catholics in the U.S. has dropped from 70%, before Catholicism began getting foggy in the 1960s, to 25% today! When Hell is gentrified, Christianity goes to the dogs — just look at the dilapidated condition of Anglicanism, and liberal Protestantism generally.

And, worst of all, attempts to air-condition Hell make it likely that more and more people will wind up in that nasty, dreadful place. Dr. Bernard Nathanson, the atheist and former abortionist who presided over some 75,000 abortions, recently converted to Catholicism. Why? Because he said he was "afraid" of Hell, of "an eternity perhaps more terrifying than anything Dante envisioned...." But had he been told that Hell is merely "nonbeing," he might have decided it wasn't worth the trouble to repent and convert.

And he might have been in for quite a surprise on Judgment Day. We at the NEW OXFORD REVIEW, an orthodox Catholic monthly magazine, proclaim Christian truth without compromise. Acclaimed by Cardinal Law as "excellent," we cover the full range of issues of concern to today's no-nonsense Christian. If you're sick of cotton-candy Christianity, get some real nourishment and subscribe today!

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speech. The question, then, is how the regime will treat the losers, and how the losers will comport themselves in their defeat.

Carter is surprisingly—I think, refreshingly—blunt in spelling out the problem. But when he turns to practical recommendations, his effort droops. At one point he says "we must find ways to clasp our many unruly yet nonviolent disobedients to our hearts, even as we disagree, sometimes vehemently, with the causes they espouse." This strikes me as an invitation to further privatize the problem. For the courts, he recommends being more mindful of politics, especially with respect to the losers: "This implies a judicial duty to give a degree of consideration to the public reception of their work, a perhaps heretical claim in this era of judicial popularity, but a perfectly sensible one if one believes that courts, too, govern." Actually, this is not a bad idea, but some readers will surely be troubled by the fact that Carter offers *Casey* as an example of the judiciary being sensitive to public opinion.

Perhaps due to its brevity, the book is soft on distinctions and analysis. Throughout the book, Carter distinguishes "disobedience" from "disallegiance," arguing that a democracy like ours ought to accommodate more of the former while trying to discourage the latter. But Carter does not treat the acts that fall between those two poles. Is it "disobedient," for example, to violate a law for the purpose of convincing a court to rule that the law was unconstitutional? If that counts as disobedience, then much of our constitutional law is a result of civil disobedience. The judge-made law of privacy leading to *Roe* was fashioned in response to physicians and activists who broke state anti-contraceptive laws in order to make a federal case of the issue. They did not admit guilt, but contended that the law was unconstitutional. Dr. King took the same position in Birmingham. Some clergy thought King was breaking the law only to make a moral point rather than a constitutional one. When they praised the police for "moderation" in dealing with the protestors, King angrily responded that it was the police, not the marchers, who acted illegally.

ONE WISHES that Carter had discussed the different ways people might operate on the borderline of the law in petitioning for redress of grievance. Carter also does not dwell enough on the position of many religious believers that they are not making specifically theological arguments when they complain about the sovereign's rulings,


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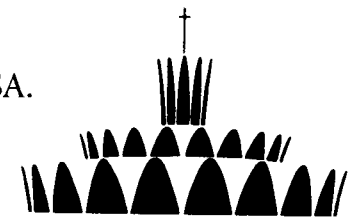

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even its rulings on religion. A major complaint today is that the embargo on "religion" has come to include an embargo on conventional moral argument, not least the principles found in the Declaration of Independence.

These defects should not make anyone hesitate to read *Dissent of the Governed.* Looking at these issues from the standpoint of dissent gives a fresh perspective. For many readers, however, it will be far from obvious that the tables have been turned so decisively against religion as to justify treating disaffected believers as dissenters, and I suspect that most believers are not very eager to view themselves in that light. Partisans of liberal constitutionalism (as wrought by the courts) will be inclined to think that there is a principled, impartial reason why religion loses its contests with the sovereign. It will be difficult for the secular liberal to imagine that traditional religion is now the little guy being pounded by the system.

For similar reasons, it will be difficult for some conservatives to accept what Carter is suggesting. For one thing, the so-called "religious right" would seem to be fairly successful, maybe too successful, in bringing its agenda before the public. Some Republicans might ask themselves, where is the lack of "voice" for religious conservatives? For their part, the churches do not like to think of themselves as dissenters, and they usually try to convince political leaders that there exists a silent majority supporting their pro-religious policies and laws.

It is tricky business playing both sides, one rhetoric suggesting the role of a majority and another the role of marginalized dissenters. Prolifers, for example, can't understand why the public at large refuses to see the analogy between their cause and the civil rights movement, but it could be argued that they don't act like the civil rights movement. Dr. King understood that the majority was not on board, and he took considerable risks in the mode of dissent to win it over. Since there is almost nothing favorable to be said about civil disobedience from conservative quarters, where the inability to prosecute flag burners is a major issue, Carter's touching on that subject will be alarming. Each of these occasions for arguing with Carter is a good reason for reading *The Dissent of the Governed.*

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## The Secularist Faith

**THE WEALTH AND POVERTY OF NATIONS: WHY SOME ARE SO RICH AND SOME SO POOR.** By DAVID S. LANDES. *Norton. 650 pp. $30.*

***Reviewed by* Michael Novak**

THE IRONY OF this major study of economic development is that its author writes as a complacent secularist and yet his fundamental thesis is theological. One can see this by comparing it to a rival study, in some ways its superior in clarity and theoretical cogency, *How the West Grew Rich: The Economic Transformation of the Industrial World* (1986). In that book, Nathan Rosenberg and L. E. Birdzell, Jr. stress institutional relationships, such as those between political and economic structures, and between science and markets. But David Landes, professor emeritus of history and economics at Harvard, unabashedly stresses culture, especially religion, and in particular, the Judaism that lies behind Christianity. In his final summary pages we read, for example:

If we learn anything from the

MICHAEL NOVAK, *who holds the George Frederick Jewett Chair for Religion and Public Policy at the American Enterprise Institute, is the author of* The Catholic Ethic and the Spirit of Capitalism. *His newest book, with his daughter Jana, is* Tell Me Why.

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> history of economic development, it is that culture makes all the difference. (Max Weber was right on.) Witness the enterprise of expatriate minorities—the Chinese in East and Southeast Asia, Indians in East Africa, Lebanese in West Africa, Jews and Calvinists throughout much of Europe, and on and on. Yet culture, in the sense of the *inner values and attitudes* that guide a population, frightens scholars. (Emphasis added.)

AND WHAT PRECISELY do the "inner values and attitudes" shaped by religion do? Landes quotes approvingly the view of the nineteenth-century Argentine champion of freedom, Alberdi, who called the religion of the English, the Germans, the Swiss, and the North Americans "the agent that makes them what they are." The center of culture, so to speak, is cult; men aspire to what they worship.

Europe's buoyant political and economic dynamism required three specific theological breakthroughs, Landes thinks: the Judeo-Christian respect for manual labor, the Judeo-Christian subordination of nature to man, and the Judeo-Christian sense of linear time. He emphasizes elsewhere how the authority of God, conscience, and church limits the authority of secular state claims and thus creates space for liberty.

Landes believes that European success required more than Judeo-Christian theology, though: "In the last analysis, however, I would stress the market. Enterprise was free in Europe. Innovation worked and paid, and rulers and vested interests were limited in their ability to prevent or discourage innovation." Culture is crucial, but alone it does not suffice.

Landes organizes his text into twenty-nine chapters, covering the whole of human history and every part of the world. These chapters are crowded with vignettes, anecdotes, delicious quotes from ancient chronicles and journals, shrewd distinctions, and reasons for and against various arguments put forward by economic historians of past and present. His style is unusually lively for an academic, and its tone is rather more like that of journalism of a high order than of systematic scholarship. His method is eclectic and commonsensical rather than heavily theoretical or ideological.

It is not as though Landes does not have an ideology of his own; about that, more later. But no other historian recounts quite so large a store of anecdotes, concrete empirical materials, and fragments of theory—just enough theory to be the skeleton for his vast range of concrete stories. From Landes, one gains a new sense of how steel was first made; the technological grandeur and the limitations of the great Chinese empires of hundreds of years ago; the tragedy of the intellectual and practical decline of Islam; the pride and self-enclosed world of Spain at the height of its power; and countless fascinating stories of craftsmen, organizers of great enterprises, and trades and barters of all types. It is as if all of economic history had come to a great world's fair, and one could visit it, pavilion after pavilion, being inspired with wonder and a sense of intellectual delight. And the theme of all the exhibits is unified: What has worked, and why; and what has not.

Landes provides a great deal of evidence that Jewish-Christian Europe cultivated discovery and novelty as did no other culture. He judges that the inventiveness of the years 1000-1500 in Europe were the most dynamic of the preceding 4000 years. He lists some of the crucial inventions of that era: water mills and other mechanical devices; the mechanical clock—the first digital,


**Classics for Readers Today**

**SOVEREIGNTY**
**An Inquiry into the Political Good**

By Bertrand de Jouvenel
Translated by J. F. Huntington
Foreword by Daniel J. Mahoney and David DesRosiers

"Who decides? Who is Sovereign? What is a good act?" In quest of answers to these vitally important questions, Bertrand de Jouvenel examines successively the nature and history of authority, the political good, the sovereign, and liberty. His concern is with "the prospects for individual liberty in democratic societies in which sovereignty purportedly resides in the whole people of the body politic." His objective is a definition and understanding of "the canons of conduct for the public authority of a dynamic society." He writes for "whoever would exercise the duties of a citizen." *Sovereignty* is the sequel to Jouvenel's widely acclaimed *On Power*, and was originally published in 1955. The Liberty Fund edition includes a foreword the places Jouvenel's work in the context of his entire corpus.

**Bertrand de Jouvenel** (1903-1987) was born in Paris, taught widely, and became a renowned observer of British and American institutions.

**Daniel J. Mahoney** is associate professor of politics at Assumption College. **David DesRosiers** is development officer for the Manhattan Institute.

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not analog, device; the eyeglass, greatly heightening the sense of precision and the possibilities of miniaturization; printing; gunpowder—used, not as the Chinese used it, for incendiary display but for the projection of force.

THIS IS A BOOK to be taken seriously, especially by non-economists. Anyone who wants to get a down-to-earth economic education enriched with endless examples will find in this text an unparalleled opportunity. Nonetheless, I see four flaws in it.

First, there is the problem of the author's ideology, lightly disguised in his last paragraph: "We must cultivate a skeptical faith, avoid dogma, listen and watch well, try to clarify and define ends, the better to choose means." It would be naive to believe from this that Landes is without an ideology of his own. Even he admits to holding strong opinions. He is, for example, disturbingly anti-Catholic. He also takes pokes as often as he can at "classical economists," free-marketeers, and partisans of laissez-faire. His arguments reveal the principles of the sort of mixed-regime liberalism one has come to expect from Cambridge, Massachusetts, closer in his case perhaps to Paul Samuelson than to John Kenneth Galbraith.

Second, these principles prevent him from paying attention to a rival vision of economic history: that of the "classical liberals" or "Austrian school." Among the writers on economic history whom he entirely ignores are Schumpeter, Mises, Hayek, Viner, Rothbard, and Kirzner. Further, on the medieval period to which Landes pays such surprising and welcome attention, and precisely on Max Weber, Landes neglects to treat Randall Collins' key volume, *Weberian Sociological Theory* (1986). By not paying attention to the work of various students and critics of Weber, Landes falls into the trap of never being very clear about what Weber actually said, and which precise parts of his hypothesis have been overturned or revised in the nearly one hundred years since he wrote.

Weber, for instance, is not very good in helping to explain differences in the performance of Protestant groups; why so few Calvinists have been found who actually taught what Weber imputes to them; why the economic performance of some Calvinist groups was long retarded; and, as Randall Collins points out, why Weber did not see that all the conditions for the rise of the spirit of capitalism that Weber attributes to the eighteenth century had already been met in the twelfth, as the huge tide of economic innovations and great social transformations at that time suggests.

COLLINS STRESSES the following points of Weberian theory: the specialized economic pursuits of various orders of monks; the availability of appeal to international authority in Rome regarding disputes among competing jurisdictions (emperors, kings, barons, prelates, abbots, orders, merchants, guilds, confraternities, etc.); the total economic dedication of tens of thousands of skilled celibate laborers; systems of accounts; sustained investment and continuous accumulation of capital; emphasis upon innovation and efficiency; the clearing of land and the use of mechanical power; the growth of new industries, from mining and metallurgy to machine-made textiles; and the building of libraries and the cultivation of research both practical and theoretical. All this long precedes the birth of Calvinism.

The third flaw is Landes' "cultivated skeptical faith," which seems to be insufficiently skeptical about secularism, for while he invokes religion, he never takes it seriously enough to study it, even a little. For Landes "the invention of invention" is the crucial economic dynamic. He senses that its origin is religious, and he himself notices (without adjusting his theoretical framework) that its power is manifest well before the Reformation. But he never allows his skepticism to question secularism. Had he done so, he might have discovered, as Daniel Boorstin did in *The Creators* (1993), that the Jewish/Christian conviction that all people are made in the image of their Creator, and called to be like Him, has been a creative force unique in the entire modern world.

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Landes might then have seen that Max Weber's preoccupation with "hard work," a "secular asceticism," and the "logic" of bureaucratic development missed the bullseye. The truly dynamic factor in economics is creativity, serendipity, innovation, and the act of enterprise. When Weber wrote, the number of democratic republics in the world could be numbered on one hand, and so he also failed to see how such republics (i.e., under limited government, as well as government by the people) interact with and alter the economic order. In general, Landes is disappointingly weak on many theoretical links that one would like to understand as clearly as possible: between markets and republics; faith and inquiry; hope and enterprise; habits and practices; institutions and laws.

Finally, in a footnote in his final chapter, Landes suggests that people turn to religious faith out of weakness, seeking comfort, whereas "science and reason are tough companions." He is quite wrong about religious faith; it is often a far tougher companion than science and reason. These, by contrast, often seem to offer a sure circle of comfort.

One wishes that in his wide reading Landes had come to detect that stubborn faith in a divine and purposeful universe whose springs run somewhat deeper than science and reason alone, and prevent them from floating on air. Such a faith, rather than the comfort-seeking religious faith he thinks he finds, would seem to be consistent with the thesis Landes already holds: that Jews and Christians have felt a deep and persistent obligation to be faithful to reason and science, come what may—and thus the obligation to build the civilization whose centuries of nooks and crannies Landes has observed teeming with joyful vitality. Landes should be more surprised by this joy. It is an important datum.

# The Bible by Numbers

**Cracking the Bible Code.** By Jeffrey Satinover. *Morrow. 346 pp. $23.*

***Reviewed by* William A. Dembski**

The "Bible Code" is the name for computer-generated sequences of letters taken from the Hebrew Bible. Researchers string all the letters together, deleting spaces between words. Then, instead of running through the text letter by adjacent letter (as we do in ordinary reading), they run through the text by skipping a fixed number of letters. The resulting sequences, known as equidistant letter sequences (or ELSs), are then inspected for patterns that cannot reasonably be attributed to chance. The Bible Code comprises such equidistant letter sequences.

The Bible Code is controversial because some have presented it as a preprogrammed time capsule set to go off once humans invent computers. The human authors of the Bible, writing well before the advent of computers, would have been incapable of consciously introducing into the Bible the patterns that Bible Code researchers are finding by means of computers. Hence these patterns, if not attributable to chance, must stem from a nonhuman intelligence. Moreover, if the patterns contain information about subsequent events in world history, this nonhuman intelligence would also have to possess preternatural foreknowledge. And since the Bible claims to be inspired by precisely such a being, the most obvious solution to the identity of this nonhuman intelligence is the God of the Hebrew Scriptures, to wit, YHWH. Here, in broad strokes, is the logic underlying the Bible Code.

Jeffrey Satinover's *Cracking the Bible Code* is the place to begin for anyone interested in the subject. It is engagingly written, well-informed, and generally sober. In particular, it avoids the statistical fallacies too commonly associated with coverage of the Bible Code. Even so, it is an

William A. Dembski, *a mathematician and philosopher, is a fellow of the Center for Renewal of Science and Culture at the Seattle-based Discovery Institute. His new book,* The Design Inference, *will be published by Cambridge University Press this August.*

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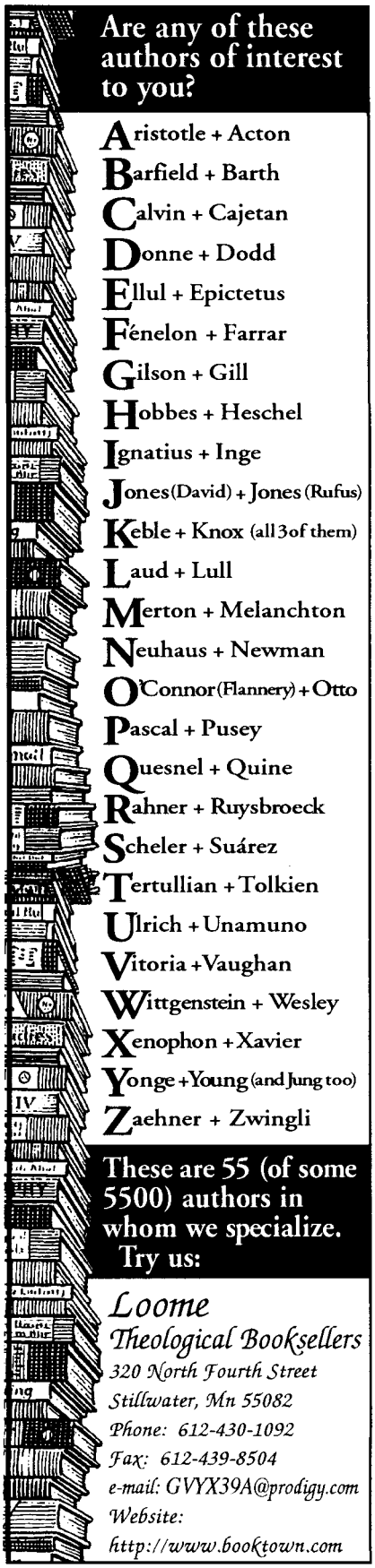



uneven text. It is superb in describing the history leading up to today's investigations. Indeed, the window it provides on Jewish intellectual life from the Middle Ages through the present is itself worth the price of the book. It is also very good at making intelligible the mathematics needed for deciding whether the Code is genuine. On the other hand, its speculative portions about the significance of the Bible Code are often diffuse and controversial.

The best known example of the Bible Code, and one Satinover treats in detail, is the Great Sages experiment. Several Israeli mathematicians took thirty or so prominent rabbis from the *Encyclopedia of Great Men of Israel,* and looked among the equidistant letter sequences of Genesis for a juxtaposition of rabbi names with their dates of birth or death. They found some. On calculating the improbability of so close a match between names and corresponding dates, the mathematicians concluded that the match couldn't have happened by chance (the probability was less than 1 in 60,000). The journal *Statistical Science* tacitly agreed. After an arduous review, its editors finally decided to publish the results of this experiment. Suddenly the Bible Code had a measure of academic respectability.

Nevertheless, one paper in a prestigious journal is hardly enough to settle so controversial a topic. The Bible Code raises a number of sticking points. For instance, even if a nonhuman intelligence can convincingly be shown to have introduced information into the Bible, the identity of that intelligence remains controversial. That's not to say that the Orthodox Jewish preference for identifying this intelligence with YHWH wouldn't be the most plausible one. But New Age adherents will be sure to have their own preferences. Moreover, if other sacred books exhibit codes, we may enter a new form of theological disputation: My code is better than yours.

ANOTHER STICKING point concerns how to use the Bible Code should it prove genuine. There are roughly two approaches, one modest, the other extravagant. The modest approach uses the Bible Code simply to authenticate the Bible, showing that there is a nonhuman intelligence behind the text. For example, Satinover describes how Bible Code researchers looked among the equidistant letter sequences of Leviticus 1:1-13 and found an overwhelming number of references to the high priest Aaron. What led the Bible Code researchers to look for Aaron's name were the persistent references throughout this passage to the Aaronic priesthood, yet no references to Aaron himself. In this passage of thirteen verses one would expect on average to find eight references to Aaron among the equidistant letter sequences. There are actually twenty-five. The probability of this happening by chance is less than 1 in 2,000,000.

This approach to the Bible Code as a scheme for authenticating the Bible is modest and seems to me the most promising course for deciding the genuineness of the Code. There is, however, also an extravagant approach. It uses the Code for divination, retrodicting the past as well as predicting the future. Satinover explicitly adopts the modest approach, stressing that the Bible Code's only legitimate function is to authenticate the Bible. Nevertheless, Satinover and most of the Bible Code advocates find the lure of the extravagant approach hard to resist. Thus Satinover describes, without criticism, how Israeli intelligence during the Gulf War used the Bible Code to predict Iraq's first Scud attack on Israel.

The key problem confronting the Bible Code, at least for now, however, is whether the patterns found in the Bible's equidistant letter sequences decisively preclude chance. Throughout *Cracking the Bible Code* one finds references to "p-values," some of which are quite small. "P-value," short for "probability value," refers to the probability that a given pattern might be present in the equidistant letter sequences by chance. The smaller this probability, the more compelling the inference that a nonhuman intelligence

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influenced the writing of the Bible. There is, however, a catch.

A small p-value by itself isn't enough to preclude chance. In addition, the pattern for which one calculates a p-value must be independently given. The Bible Code researcher can't just willy-nilly search through equidistant letter sequences until something interesting or unusual turns up. Statisticians call this cherry picking or data snooping, and it vitiates any statistical analysis. Patterns must be given independently of the search, and only then can small p-values indicate the finger of God.

To Satinover's credit, he is fully aware of the dual requirement that p-values be small and that patterns be given independently. Moreover, despite his enthusiasm for the Bible Code, he never loses sight of this requirement. By keeping to a sound statistical methodology throughout, Satinover earns the credibility that others writing on the Bible Code fail to achieve.

If all that is required to demonstrate divine agency is to find an independently given pattern that also has a small p-value, why does the Bible Code remain controversial? One problem is that Bible Code research is stretching what statisticians mean by "independently given patterns." Moreover, the p-values are not always easy to calculate. The Bible Code is forcing statistics to extend its research frontiers, an unprecedented case of biblical studies advancing statistical research.

Although it's too early to decide whether the Bible Code is genuine, Satinover makes a good argument for taking it seriously. The credibility of the key players is significant. The main figures involved in this debate, whether critics or advocates of the Bible Code, are top rung, well-credentialed mathematicians. All the fundamental research on the Bible Code has been done openly, and without a hint of deception. It is notable that advocates of the Bible Code have jeopardized their careers, converted to Orthodox Judaism, refocused their research, and in some cases changed disciplines.

Statistical analyses, though yet to decide this debate, have at least been suggestive. Highly improbable, independently given patterns seem to occur in the Hebrew Bible with an obstinacy displayed in no other text. What's more, if this phenomenon had to occur reliably in some ancient text, there would be no better candidate than the Hebrew Bible, especially its first five books, known as the Torah.

The textual transmission of the Hebrew Bible, and especially of the Torah, is far more accurate than anything else in antiquity. Because the Bible Code is sensitive to copying errors, the Hebrew Bible satisfies a crucial necessary condition for possessing such a code. Indeed, if the Bible Code ultimately proves genuine, we can credit its discovery to generations of obsessive-compulsive scribes who meticulously transcribed the Hebrew Bible. We might then even regard their obsessive-compulsiveness as a divine grace.

The philosopher Bertrand Russell was once asked why he didn't believe in God. He replied, "Not enough evidence." Satinover's fascination with the Bible Code is that it may provide evidence for God's existence that would have convinced even a Bertrand Russell. There has been a long dismal trend of science eroding faith in God. In the Bible Code Satinover sees a unique wedding of science and theology, wherein each reinforces the other.

But perhaps that wedding is not unique. At the same time that research in the Bible Code has taken off, research in a seemingly unrelated field has taken off as well, namely, biological design. These two fields are in fact closely related. Indeed, the same highly improbable, independently given patterns that appear as the equidistant letter sequences in the Bible Code appear in biology as functionally integrated ("irreducibly complex") biological systems, of the sort Michael Behe discussed in *Darwin's Black Box*.

The relevant statistical methodology is identical for both fields. As a result, the two fields stand to profit from each other. For instance, my


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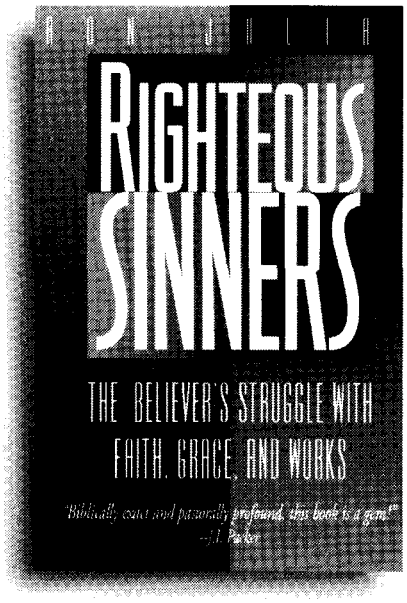


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forthcoming book, *The Design Inference,* gives a thorough account of universal probability bounds, i.e., how small a p-value one needs to eliminate chance decisively. (Although the literature on universal probability bounds dates back to the French probabilist Emile Borel, it seems not to have been engaged by the Bible Code researchers.)

This convergence of the Bible Code and biological design should not seem surprising. There is a tradition within both Judaism and Christianity of speaking of two "books" where God reveals himself—the Book of Scripture, which is the Bible, and the Book of Nature, which is the world. I commend Jeffrey Satinover for his efforts to read both books.

## Making the Wager

**GOD: THE EVIDENCE. THE RECONCILIATION OF FAITH AND REASON IN A POSTSECULAR WORLD.** By PATRICK GLYNN. *Prima. 224 pp. $22.*

***Reviewed by*** **Edward T. Oakes**

IN 1987 A FAMOUS political leader gave this diagnosis of the ills of his society: "Interest in the common good has slackened, callousness and skepticism now dominate the political landscape, and the role of moral incentives has declined. The number of people—some of them quite young—has increased whose ultimate goal is material well-being acquired at no matter what cost to themselves or others. . . . Disregard for laws, bribe-taking, toadyism are ruining the moral atmosphere of society."

Was this the Pope speaking to the Vatican diplomatic corps on the evils of Western individualism and materialism? Or Margaret Thatcher to Parliament on the woes of the welfare state, or Ronald Reagan on the campaign stump bemoaning the crime rate and the loss of family values? In fact it was Mikhail Gorbachev speaking to the Plenum of the Communist Party; but the similarity between Gorbachev's diagnosis and that found on the lips of so many conservative moralists decrying their own societies brings us to the point of Patrick Glynn's short but instructive book on the long-term consequences of secularism and atheism.

Himself an atheist since his Harvard days (or at least an agnostic whose skepticism was so strong that he doubted the existence of God more than he suspended judgment), Glynn has recently felt forced to reconsider the issue. As the title of the book indicates, he surveys the evidence once more, and in doing so he shows the reader how he has left his past convictions behind and become a believer. Moreover, his arguments are trenchant enough that the reader begins to suspect that the burden of proof has indeed shifted in the last thirty years, so that it is now up to the atheist to defend his denial of God.

EDWARD T. OAKES, S.J., *is Associate Professor of Religious Studies at Regis University in Denver, Colorado, and author of* Pattern of Redemption: The Theology of Hans Urs von Balthasar.

GLYNN DEFINITELY means what he says when he calls his book *God: The Evidence.* A skilled forensicist, he gathers his evidence and sets it out clearly and effectively—which makes for a fast-paced and relatively short book that can be read in one evening. But, as Glynn makes clear, he was moved to religious belief not through rational calculations, but rather because, as Pascal put it, "The heart has its own reasons that reason knows nothing of."

Though Glynn went to a Jesuit high school, his four years as an undergraduate at Harvard brought him, however regretfully, to the view that science had replaced God. As might be expected, a year in England at Cambridge studying British empiricism and Anglo-Saxon linguistic philosophy and a further four years at Harvard as a doctoral student in philosophy confirmed him in his newly discovered atheism.

Glynn later went to work in Washington for the Reagan Administration on arms control issues. He was able to square his atheism with his conservative political convictions under the influence of Leo Strauss, the influential political philosopher from the University of Chicago. Strauss claimed that most of the great philosophers of antiquity were atheists who hid their atheism for the good of society under an esoteric code accessible only to the enlightened few, namely, Strauss and his graduate students.

This hybrid of conservative morality in public and atheism in private seemed to serve Glynn until his first marriage collapsed. The divorce was "amicable," as the phrase has it, but it left a feeling of hollowness that began to lift only when the author decided, more or less arbitrarily, to "live honorably," despite the fact that he felt with Dostoevsky that if God does not exist then all things are permitted. But it was only when he fell in love with a woman who was completely at home in her own religious convictions that he began to suspect there was something more.

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The Washington Times

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## Clinton legal team balloons, creating a new controversy

### Official doesn't know lawyers' scandal role

By Paul Bedard
THE WASHINGTON TIMES

The chief White House administrator said March 12 that she does not know whether White House lawyers are handling personal legal chores for the first family.

"I do not know specifically," Ada Posey, director of administration for the White House, told a House panel probing reports that Presi-

### Four-person office grew to 34 since '92

By Paul Bedard
THE WASHINGTON TIMES

The White House counsel's office has swollen to become the largest and most expensive West Wing legal operation in history.

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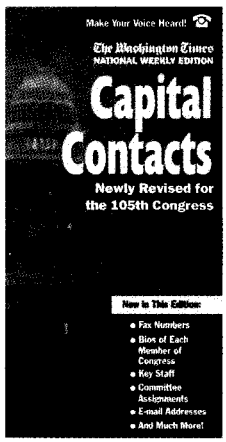


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all the literature he could find on Big Bang cosmology, the anthropic principle, near-death experiences, holistic medicine, etc. Not all of this "evidence" will be as convincing to the reader as it seems to be for the author, but then again, as Glynn openly admits, he is not claiming that "reason can bring one to belief in God. What I am saying is this: Reason no longer stands in the way."

IN THIS REGARD, Glynn's argument is, as already noted, reminiscent of Pascal; indeed at one point Glynn invokes Pascal's famous "wager." But his use of the wager is somewhat disconcerting, since it is applied with a modern therapeutic twist that Pascal might not have found to his liking.

Pascal's Wager, of course, is the famous gambler's calculation in favor of religious belief: If a man chooses belief and turns out to be right, he is rewarded with eternal bliss. If he chooses belief and is wrong, or chooses disbelief and is right, then he ceases to exist after death—but loses nothing. On the other hand, if he chooses disbelief and is wrong, he faces eternal damnation. Thus, the most reasonable course of action, the only one which avoids damnation and has at least a chance of salvation, is believing.

As has been pointed out often enough, Pascal's Wager is not exactly the win/win situation for the believer it would first seem to be, for belief carries a price of fidelity to the commands of God with their demand of self-abnegation, and why pay that price if God does not exist in the first place? Glynn is very much the modern believer here: in a chapter outlining the immense *medical* benefits to be had from belief—greater longevity (even for believing smokers!), better heart-rate, lower stress levels—he tries to soothe the nonbeliever into faith with these appealing statistics. Not even the rigors of Christian morality, it seems, carry much of a price! This kind of argumentation is what one might call Pascalianism in a minor key, one geared to the shopper of self-help books: even if God does not exist, belief brings such great health benefits that it would be foolish not to take the risk, or so the author seems to imply.

Admittedly, this kind of wager is a bit of a comedown from the rigors of Pascal's Jansenism. But we must be content with the apologists our age deserves: just as Thomas Merton's *Seven Storey Mountain* is but a pale and derivative autobiography of conversion in comparison to St. Augustine's *Confessions*, so too is Glynn's book to Pascal's *Pensées*. But of course the same could be said of twentieth-century Christianity in relation to the Great Tradition off of which it has been feeding, so one can hardly expect an isolated author to change an entire ethos. And to be fair, Glynn stresses so much the healthy aftereffects of churchgoing springing from a life of confident faith because he recognizes that the moral demands of biblical faith befit man's essence and are in conformity with the "angels of our better nature." And so in the deepest sense he is right: It would be plain folly, as the Psalmist recognized, to ignore evidence that keeps staring us in the face.

## Remnants of a Century

**A THREAD OF YEARS.** By JOHN LUKACS. *Yale University Press. 481 pp. $30.*

***Reviewed by* George McKenna**

HISTORIAN John Lukacs has written a year-by-year meditation on the twentieth century, or most of it anyway. The book starts in 1901 and ends in 1969, when, according to Lukacs, Anglo-American civilization finally petered out. Each year gets a chapter (a very small one; most of the chapters run five to seven pages) consisting of a fictional vignette followed by the author's rather contentious dialogue with

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himself. The book has no structure, save that marked out by the succession of years, no characters lasting through it (unless we count a mysterious "K.," who pops up intermittently, sometimes disappearing for a decade or more), and no apparent plot.

The vignettes and dialogues serve as vehicles for the author's sometimes cranky judgments and tastes. He hates the Guggenheim Museum, New England intellectuals, *Casablanca*, and the Spanish architect Antonio Gaudí. Whittaker Chambers, he says, was "wrong, wrong, wrong"; one chapter's vignette has a character who appears to be a caricature of Hannah Arendt, and the character is pronounced a "fraud"; he thinks that if Hitler had been assassinated the Germans would have revived their stab-in-the-back theory, which would rankle again for years to come; and then there is that business about the death of a civilization, of which more presently.

An eccentric book—yet it works. It succeeds in what it sets out to do, which is to recall the sights, the sounds, the textures of successive years in this century as they might have been experienced by people living in these years. It is not, Lukacs announces at the beginning, a book about characters but about *years*, and it brings to us some of the peculiar essences of those years: the stillness of a Friday evening at the Philadelphia Club in early September of 1901, the poverty and dreariness of 1919 Vienna ("Cold rain, mendicant streets, the November sky the color of sour milk"), the "pervasive cloud of perfume and cigarette smoke" in a crowded Berlin drawing-room in 1932.

Readers looking for Hitler, or even talk of Hitler, in that drawing room, will be disappointed. (The party was celebrating the latest success of a Jewish operetta composer.) Nor will they find Theodore Roosevelt in 1901, or Wilson in 1919. Lukacs has scant respect for "novelized histories," where authors put their own words into the mouths of great historical figures. What he tries to do is the opposite: "I am writing about everyday people whose plausibility exists only because of the historical reality of their times and places." Lukacs' original title for this book was *Remnants*. The book catches us up, pulls us into the remnants of those years; aesthetically and emotionally we experience them as the people in them did, or at any rate as they might have. Here is a scene he sets in the America of the mid-fifties:

> It is New England, Indian summer, perhaps windier and cooler than usual on this October afternoon . . . the scarlet, brown, and gold leaves are blowing across the commons of the college. . . . This is a women's college, one of the three most reputable and prosperous New England ones, and this is 1955, still a few years before the custom of book bags, knapsacks, and ragged clothing. So there is the peculiar posture and walk of American girl students carrying their books against their chests and stomachs, holding them against their bodies.

Yes, there was a time when college students did not wear knapsacks or drape bags over their shoulders, when female students could be called "girls," and when many of them did seem to hold their books in that odd manner. We can look back with nostalgia or disgust, but there it is, an authentic remnant.

In evoking these scenes Lukacs is also developing a theme, the decline of "Anglo-Saxon America," and this is the least plausible part of the book. The 1955 campus scene, for example, takes place in Indian summer. This is Lukacs' trope for the final years before the collapse of Anglo-American civilization. Cracks were already starting to appear in 1955, "even though the wider public evidences of those cracks did not show until the sixties."

The Hannah Arendt character appears in this vignette, and she represents all the jaded European

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intellectuals who got into our universities and denigrated American civilization (which, by the way, Hannah Arendt never did). Lukacs, who is himself of Hungarian origin, is less than clear on what the substance of Anglo-American civilization is, or was. "What I have in mind," he says to himself in the 1969 chapter, "is the erosion of beliefs and institutions and manners and morals and habits that can no longer be restored." His alter ego then chimes in: "You have been writing about the decline not of the West but of the Anglo-American upper class." He agrees: this was the class composed of "the most respected and admired men in the world. Think only of the English word *gentlemen*."

ONE STRUGGLES TO make sense of this. We are dealing, it seems, with a class that died out in 1969, a class of gentlemen. This at least helps to explain Lukacs' narrow range of settings and personae. All of the vignettes are set either in East Coast America or in Europe, and nearly all the people in them are upper-class types. He takes us to Philadelphia and its leafy suburbs, to London, to Paris, to Berlin, to Leipzig, to Vienna and Budapest, then back to Gramercy Park in Manhattan, then up to the Maine Coast and back to Martha's Vineyard. We are traveling in the company of eminent professors (lots of professors in these stories), artists, military attachés, industrialists, and rich people with no apparent occupation and plenty of leisure.

Lukacs' world of "Anglo-America" seems an awfully small slice of America. In geographic history it antedates the Louisiana Purchase, and demographically it was seriously challenged by the Celtic immigration near the middle of the nineteenth century, not to mention the arrival of millions from Southern and Eastern Europe at the close of the century. From one standpoint, Anglo-Saxon America had pretty well ended by the time his book begins in 1901.

If, on the other hand, what he means is the American civilization founded by Anglo-Saxons, shouldn't some recognition be given to all the honest and decent non-Anglos who played by its rules and helped sustain it through this century? Ethnic working classes appear in only one chapter of this book, and then only as as extras, processants circumambulating a new Catholic church. There are no American Jews in the book, no Italians, no blacks, and the only Irish-Americans with speaking and thinking roles are a priest about to become a monsignor and some prosperous parishioners. He has Manhattan vignettes set in Gramercy Park and the East Side around midtown, but not in Hell's Kitchen, not in Harlem, not on the Lower East Side, not at City College.

EVEN IF WE limit ourselves to Protestant America, it is difficult to find a real-life match for what he understands by the term "gentlemen": respectable, courtly men who held fast to hallowed beliefs and traditions. Right now I am looking at an engraving in my American government textbook that depicts an altercation on the floor of the Philadelphia Congress Hall in 1798. Representative Matthew Lyon of Vermont is menacing Representative Roger Griswold of Connecticut with fireplace tongs, and Griswold is preparing to defend himself with a club; the fight began after Griswold spat in Lyon's face. In the next century there were canings on the floor of Congress, and Bowie knives presented. A backwoodsman was elected President and a savage civil war broke out.

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Yes, there were gentlemen—Robert E. Lee was a gentleman—but were they the ones who shaped America's dynamic civilization? Were the Radical Republicans gentlemen? Were the captains of industry? Was Teddy Roosevelt? ("That damned cowboy," Mark Hanna called him.) The term doesn't fit, because the genteel aura Lukacs surrounds it with doesn't fit America. He has tried to recast our history in a Burkean mold, as the organic growth of civil traditions. But the real America is always building up and pulling down, abruptly breaking with the past, then trying to restore it, then starting again, creatively bungling its way through history.

Still, Lukacs seems right to surmise that something has ended in America since the end of the 1960s. What it was, and what caused it to end, is never precisely spelled out, but that is all right. This is not an analytical book but a book of evocations, summoning the remnants—some of the remnants—of a certain way of life. The book is not quite Whitmanesque in its scope, but that too is all right. Lukacs has brought us some shells he has selected from a past that he loves. His tone is elegiac: he knows that what lived in those shells died long ago. But the shells themselves seemed so beautiful to him that he had to show them to us; so he did, after polishing them and perhaps slightly enhancing the colors. His effort, I think, is successful, all the more because he seems to have pulled it off so effortlessly. It is a graceful goodbye to this century.

## BRIEFLY NOTED

**JEWS AND THE AMERICAN SLAVE TRADE.** By SAUL S. FRIEDMAN. *Transaction. 326 pp. $34.95.*

After being been purged from American Christianity since the end of World War II, the practice of demonizing Jews is now more or less confined to fringe elements of the black community. Unfortunately, these include "Afrocentric" academics whose influence on the campus is way out of proportion to their numbers and their scholarship. These are the people who have taken the old myth of a Jewish conspiracy to control the world and revamped it to blame Jews for the slave trade, slavery, and whatever has ailed the black community since. *The Secret Relationship Between Blacks and Jews,* published by the Nation of Islam in 1992, is the best-known example of this genre. On the naive assumption that bigots can be reformed by factual evidence, Professor Friedman attempts to refute the demonizers on the basis of archival records and previously published accounts. According to him, Jews as a group were never rich or powerful enough to control anything, and their record on the slavery issue was no different from that of any other group. Unfortunately, Friedman's prose is clumsy, his details numbing, his application of present-day moral sensibilities back into history simplistic, and his factual errors alarming. If anyone is interested in the names of all the slave traders, slave holders, and slave-state politicians who were not Jewish, this book is for them. As for an effective refutation of *The Secret Relationship,* it has already been done—in three pages—by the distinguished historian David Brion Davis (*New York Review of Books,* December 22, 1994).

— *Lawrence Grossman*

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**OLD WINE, NEW FLASKS: REFLECTIONS ON SCIENCE AND JEWISH TRADITION.** By ROALD HOFFMANN and SHIRA LEIBOWITZ SCHMIDT. *W. H. Freeman. 362 pp. $28.95.*

Books on religion and science have become something of a cottage industry in the publishing world. Most of the best of these works have been written by distinguished scientists themselves, such as John Polkinghorne or Stanley Jaki. But noted more for their absence have been the reflections of Jewish scientists on this same theme, leaving one with the impression that the topic of religion and science is almost exclusively a concern of Christians. But now come Roald Hoffmann, a Nobel laureate in chemistry, and Shira Leibowitz Schmidt, an Israeli engineer and essayist, to show what we can all learn from a Jewish contribution to this theme—especially when these two authors argue with each other, as they often do. (This is by no means a jointly authored book but is antiphonal in its composition, and in its occasional cacophony reminded me of the old joke that any room with two Jews will have three opinions.) Theirs is also a very *layered* text, reminding this gentile reader of the Talmud, perhaps the most layered text in all of human history. For example, it devotes one chapter to a case that went to the Israeli Supreme Court revolving around a misaligned "No Parking" icon. Besides being a hilarious account of one driver's relentless "guardhouse lawyering" using both Talmud and semiotics to avoid a parking ticket, the chapter uses this case to make fascinating points about signs, meaning, and scientific truth. And not to be missed—worth the price of the book, really—are the remarks on Jeremiah 6:27 ("I have made you an assayer of my people. Their lead is consumed in fire.") by Herbert Hoover, the American President who had been a mining engineer before he took up politics. One could wallow in this book for hours, not least because it has what most books on this theme lack, a whimsical sense of humor, which, like so much Jewish humor, is highly charged with a sense of the tragedy of life.

*— Edward T. Oakes, S.J.*

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**SACRED GAMES: A HISTORY OF CHRISTIAN WORSHIP.** By BERNHARD LANG. *Yale University Press. 527 pp. $40.*

Writing on the tacit assumption that liturgy is too important to be left to liturgiologists or even to theologians, an historian of religions surveys Christian worship across a broad range of Orthodox, Catholic, Protestant, and Pentecostalist communities, and touches on Christian Science and Steinerism as well. The book is structured according to six phenomenologically and theologically justifiable categories: praise, prayer, sermon, sacrifice, sacrament, and spiritual ecstasy. The author draws some interesting parallels from beyond Christianity, and includes many apt quotations and illustrations. Irritating features of the work include some idiosyncratic hypotheses (the Our Father as a prayer of John the Baptist's; "This is my body" and "This is my blood" as derived from conjectural words spoken at private sacrifices in the Temple), an attempted rehabilitation of magic, a strangely selective familiarity with English-language liturgical texts, an underestimation of the reader's culture (Michelangelo's "rightly famous frescoes" in the Sistine Chapel; "Corinth, Greece"), a deficient sense of bathos ("Thomas Aquinas, Friedrich Schleiermacher, and Norman Pittenger"; "from Cyprian to Olier and [Kenneth] Stevenson,"), and a frightening athleticism (Riverside Church "within walking distance of Manhattan's bank and business area"). The author has read widely but not always wisely; his book does both too much and too little to merit the publisher's wild claim that it is "the first full-scale history and interpretation of a collective spiritual act fraught with meaning."

*— Geoffrey Wainwright*

**RECONSTRUCTING AMERICA: THE SYMBOL OF AMERICA IN MODERN THOUGHT.** By JAMES W. CEASER. *Yale University Press. 292 pp. $30.*

A spirited defense of "the real America" and a devastating polemic against those who have "deconstructed" it, beginning with eighteenth-century European thinkers long before deconstructionism was in vogue. Ceaser, who is professor of government at the University of Virginia, rightly takes to task American intellectuals, especially literary critics, who wallow in the denigration of their country by their presumed European betters. Along the way, he effectively champions political science as a necessary guide to evaluating the relative worth of regimes. A bracing argument that deserves to be engaged as intelligently as it is advanced.

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**THE SOUL OF DEVELOPMENT: BIBLICAL CHRISTIANITY AND ECONOMIC TRANSFORMATION IN GUATEMALA.** By AMY L. SHERMAN. *Oxford University Press. 213 pp. $45.*

Picking up on David Martin's pioneering work (*Tongues of Fire*) on the economic and social impact of the Protestant "explosion" in Latin America, Ms. Sherman examines the particular case of Guatemala. Converts from what she calls the "Christo-paganism" of folk Catholicism do indeed, she concludes, form communities of support for economic responsibility and enterprise. This is in part a study of the nontheological factors in the spread of Protestantism, but it is also a study in the social consequences of the theological.

**THE PURSUIT OF HAPPINESS: LIVING THE BEATITUDES.** By SERVAIS PINCKAERS. *Alba House. 204 pp. $5.95 paper.*

The author of the influential and very scholarly *The Sources of Christian Ethics* here offers a popular and deceptively simple exposition of the Beatitudes. The Beatitudes, he insists, are not an "interim ethic," as some theologians claim, nor a set of impossible commands, but the promise of the new life in the Spirit of God. They are the way to happiness (i.e., beatitude), which is God's purpose for his children. For those times when you know you must go back to the sources to drink again from the well of spiritual wisdom, *The Pursuit of Happiness* is warmly recommended.

**A PRIEST FOREVER.** By BENEDICT GROESCHEL. *Our Sunday Visitor. 208 pp. $9.95 paper.*

A beautifully affecting story of a young man, Eugene Hamilton, who by extraordinary permission of the Pope was in 1997 ordained a priest only hours before he died of cancer. Father Groeschel's telling of the story is moving but not maudlin, and he employs the occasion to offer insightful commentary on the "ontological," as distinct from purely "functional," character of priesthood.

**LUTHERANISM, ANTI-JUDAISM, AND BACH'S *ST. JOHN PASSION*.** By MICHAEL MARISSEN. *Oxford University Press. 109 pp. $16.95.*

The author, who teaches music at Swarthmore, argues that Bach interpreted the fourth Gospel to assign responsibility for the crucifixion to all mankind. A useful point to make, although falling somewhat short of one rabbi's blurb claiming that "Dr. Marissen addresses the question of the hour: is even Bach anti-Semitic, and does he belong among the exterminationists, along with Lutheran theologians from 1517 to nearly our own day?" One wonders for whom it might be the case that Bach's attitude toward Jews is "the question of the hour." There were very few "Lutheran theologians" in 1517, and since then there have been none of note who were "exterminationists." The book is more sensible than the blurb.

**NATURAL LAW AND MORAL INQUIRY.** Edited by ROBERT P. GEORGE. *Georgetown University Press. 281 pp. $55 cloth, $24.95 paper.*

Ten essays exploring aspects of the "ethics, metaphysics, and politics in the work of Germain Grisez." Grisez, who is commonly associated with John Finnis and Joseph Boyle, is a foremost proponent of an ethics of obligation grounded in natural law and Catholic moral theology. This book is, for specialists in moral theory, an invaluable guide to his work and to the responses of his critics, both friendly and otherwise.

**FRIENDS OF GOD AND PROPHETS: A FEMINIST THEOLOGICAL READING OF THE COMMUNION OF THE SAINTS.** By ELIZABETH A. JOHNSON. *Continuum. 320 pp. $24.50 cloth.*

The author writes: "An ecological sense of peace and wholeness pervades Rosemary Radford Reuther's proposal that death be accepted as a natural part of the life cycle, a moment that reveals our deep connectedness to the universe. Profoundly committed to healing relationships between women and men, nations and classes, humans and the earth, and the world and the divine so that they nurture rather than destroy the living planet, her basic move is to cast eschatology on a horizontal, historical plane rather than allow it to point vertically to what comes 'beyond' or 'after' history." In 319 other pages of such prose the author of the dissident feminist classic *She Who Is* argues for a feminist theological reading of the communion of saints that is neither theological nor a reading nor about saints. For her, the communion of saints is a "symbol" provoking "memories" of the dead. She complains that her position has been overlooked.

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**WHY I AM STILL A CATHOLIC.** Edited by KEVIN and MARILYN RYAN. *Riverhead. 322 pp. $13 paper.*

Why I am *still* a Catholic. It is hard to imagine a more arrogant implication, as though one is doing the Church a favor by hanging around, as though most sensible people have left and one has to explain why he is staying. Actually, some of the essays in this grab-bag are compelling statements of gratitude for the grace of being a Catholic, but others reflect everything that is wrong with the title. Somewhat amusing is the inclusion of former abortionist Bernard Nathanson, who only became a Catholic the day before yesterday. You're *still* a Catholic?

**JOHN CASSIAN: THE CONFERENCES.** Translated and Annotated by BONIFACE RAMSEY, O.P. *Paulist Press. 886 pp. $39.95.*

The desert has always promised mystery and spiritual battle, even before John the Baptist ate locusts and Jesus went there to fight the devil. St. Antony heard the word of God and left for the desert, starting a tradition of ascetics and hermits who left the world to find a pure relationship with God. Sometime between 380 and 405, the Romanian monk John Cassian and his fellow monk Germanus made two extensive journeys into the deserts around Alexandria, where they sought out several *abbas*, respected elder monks, seeking conversation and wisdom. Between 426 and 429, Cassian, by then an ordained priest and founder of two monasteries in Marseilles, wrote *The Conferences*, an account of twenty-four of their day-long conversations with fifteen of the most respected *abbas*. These conversations touched on every element of the ascetic and spiritual life, and they include a spirited attack on St. Augustine's notion of predestination, no light matter during the heyday of Pelagianism. Father Ramsey, a pastor in the somewhat different desert of Manhattan, has provided us with the first complete translation of this important Latin treatise, including brief, thorough introductions to each conference as well as to the life and thought of Cassian as a whole. Ramsey sees *The Conferences* as a reminder that the spiritual life requires authoritative teachers and guides; such holy men as Benedict, Cassiodorus, Gregory the Great, Alcuin, and Aquinas all turned to John Cassian when seeking such authoritative spiritual guides. This book helps us to understand why.

**YOURS IS A PRECIOUS WITNESS: MEMOIRS OF JEWS AND CATHOLICS IN WARTIME ITALY.** By MARGHERITA MARCHIONE. *Paulist Press. 257 pp. $14.95.*

Most people who complain about the "silence" of Pope Pius XII regarding the Holocaust imply that some measure of anti-Semitism or acquiesence to anti-Semitism was behind his alleged inaction. This well-researched if woodenly written book demolishes any such claim. One interview after another with contemporaries details how, on the Pope's orders, Jews were hidden in monasteries, churches, and convents to escape being deported to Auschwitz or Dauchau by the Nazis or Mussolini's Fascists. As a result, 85 percent of Italy's Jews survived the persecutions. The Pope dispensed the religious orders from having cloistered areas in their convents and monasteries, allowing the superiors in Italy to hide refugees from Nazi persecution—at great risk to themselves. With papal encouragement, an underground network was established among the religious congregations to supply the Jewish refugees with false documents allowing them to walk about and even escape to freedom. Despite often being threatened with deportation himself, Pope Pius remained in Rome while the Italian king and prime minister fled the German occupiers. After negotiating to get Vatican City declared an extra-territorial zone during the Nazi occupation of Rome, for ten months he sheltered in the basilica of St. John Lateran many Jewish orphans of the war. Italian Jews who lost their jobs because of discrimination often found work in the Vatican, Jewish law students were accepted into its law school, and those who sought to emigrate were given diplomatic and logistical support. Sister Marchione also finds documentation of papal protests against the persecutions of the Jews in Italy, Vichy France, and elsewhere, citing both Vatican documents and European news accounts. It is true that Pope Pius held his tongue in part in order not to attract hostile Nazi attention, but he did so mostly because any such attention would have uncovered the thousands of Jews hidden in nooks and crannies of Church property, many of whom were willingly interviewed for this useful, if less than scintillating, apologia.

**THE INCOHERENCE OF THE PHILOSOPHERS.** By AL-GHAZALI. Translated by Michael E. Mamura. *Brigham Young University Press. 580 pp. $29.95.*

Abu Hamid Muhammad al-Ghazali (1058-1111) was an Iranian Sufi

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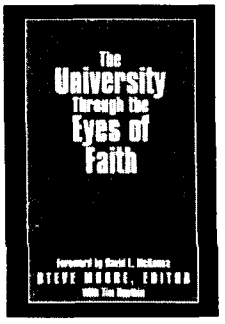
mystic whose *The Incoherence of the Philosophers* was an antirationalistic broadside against two of the greatest philosophical lights of the medieval Islamic world, al-Farabi and Ibn Sina (Avicenna). This edition includes the Arabic text alongside the annotated translation by Mamura, professor emeritus of the University of Toronto. Of note to medievalists, Islamic specialists, and those interested in Islam's engagement with the tradition of Greek philosophy and Western thought.

**RECEIVING SØREN KIERKEGAARD: THE EARLY IMPACT AND TRANSMISSION OF HIS THOUGHT.** By HABIB MALIK. *Catholic University of America Press. 437 pp. $59.95.*

By the 1920s, the thought of the Danish existentialist Christian philosopher and theologian Søren Kierkegaard (1813-1855) was at the center of European intellectual life. But during his life and in the decades immediately after his death his work was often ignored or misunderstood. In this well-researched and scholarly book, Professor Malik of the Lebanese American University in Beruit tells the story of how Kierkegaard's ideas were at first rejected and later rediscovered, tracing his influence on Hans Christian Andersen, Henrik Ibsen, Miguel de Unamuno, and other important European thinkers of the late nineteenth and early twentieth centuries.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Editor Steve Moore received his Ph.D. from the University of Michigan and also attended McMurry University, Asbury Theological Seminary and St. Andrew's University (Scotland). He recently completed post-graduate study at Harvard University and was a visiting scholar at Oxford University.

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# THE PUBLIC SQUARE

A Continuing Survey of Religion and Public Life

Richard John Neuhaus

## The Most New Thing in the Novus Ordo Seclorum

Since I do not assume that all our readers are also readers of the *Weekly Standard*, herewith an expanded version of a review that appeared in that esteemed publication. (No, Jody Bottum, who used to be our associate editor and is now the books and culture editor of the *Standard*, did not have the temerity to cut his former boss' copy. It is simply that I say some things here that seem more appropriate for this forum.)

John T. Noonan, Jr. is without doubt one of the most distinguished minds in our federal judiciary. Before being appointed to the Ninth Circuit Court of Appeals in 1986, he was professor at Boalt School of Law at the University of California, Berkeley, and authored major studies on the maddeningly complex connections between religion and law. Widely acclaimed books on usury, the slave trade, and other matters demonstrate that he is, above all, a historian, with a particular flair for the history of ideas. That demonstration continues with his new book, *The Lustre of Our Country: The American Experience of Religious Freedom* (University of California Press, $35). The book is a personal summing up of Noonan's reflections on what he correctly believes to be America's most innovative and audacious contribution to world history—the free exercise of religion.

The book's title is from Noonan's hero, James Madison (or JM, as he signed himself), for whom, says Noonan, "the whole burden of freedom was carried by the formula of free exercise." The First Amendment's commitment to the free exercise of religion, Madison wrote, "promised a lustre to our country." There are but sixteen words: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." But the interpretation of those few words, more than any other aspect of contemporary jurisprudence, has cut to the heart of our understanding of the American experiment. Although his tone is generally irenic, Noonan leaves no doubt that the courts, and the Supreme Court in particular, have made a hash of the Religion Clause under the rubric of "church-state law."

An egregious error entrenched itself beginning in the 1950s, when the courts began speaking not of the Religion Clause but of two Religion Clauses—the no establishment clause and the free exercise clause. Predictably, the error has been compounded again and again as the "two clauses" have been pitted against each other, almost always to the detriment of free exercise. As Noonan notes, there are two prepositional phrases of one clause. "The first phrase assumed that establishments of religion existed as they did in fact exist in several of the states; the amendment restrained the power of Congress to affect them. The second phrase was absolute in its denial of federal legislative power to inhibit religious exercise." Over time, state establishments disappeared and the First Amendment was "incorporated" to apply also to the states, but always it should have been evident that there is one Religion Clause devoted to the *end* of the free exercise of religion. No establishment is a stipulated *means* to serve that end. The jurisprudence of the last half century, however, has tended to turn the means into the end, repeatedly declaring that any benign connection between government and religion is a forbidden "establishment." The result is a court-imposed governmental indifference to religion that inevitably results in de facto governmental hostility to religion.

As long-time readers know, I have been pressing for years the question of the one Religion Clause, and it is most gratifying to see more constitutional scholars picking up on it. The Religion Clause is a coherent guarantee of free exercise, not a jerry-built compromise proposing that free exercise needs to be "balanced" against another good called "no establishment." From the earlier Virginia measures supported by Madison and Jefferson through to the First Amendment, it is always clear that the reason



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there must be no establishment of religion is that establishment would infringe upon the free exercise of religion. A particular merit of Noonan's discussion is that it highlights how very recent is the practice in which the courts speak of "two religion clauses." It is a practice that has led the courts so far astray as to suggest that balancing the clauses requires the government to be neutral as between religion and irreligion. One can imagine the distress of Mr. Madison if he could see the way recent jurisprudence has turned the First Amendment on its head.

### *Pretentious Guardians*

John Noonan has written elsewhere about "the masks of the law." One mask of the law is that of judges pretending that they are neutral when in fact they impose (establish) their own peculiar view of religion. In the present book, Noonan documents the powerful influence of liberal Protestantism and especially William James in the courts' religion jurisprudence. In James' *Varieties of Religious Experience*, religion is a radically private experience of the isolated individual. But in the real world, religion has corporate and social dimensions that necessarily include more than private experience and feelings. This reality has been frequently ignored also by the Supreme Court when, for instance in cases dealing with conscientious objection to military service, it equates religion with any sincerely held belief. Madison's more vibrant understanding of free exercise, by way of contrast, was forged in his encounters with real communities of religious commitment called Baptist, Presbyterian, and Anglican.

Another mask of the law is the courts' self-deluding view of themselves as Platonic guardians of truth that float above the reality of government. In regulating the activities of government, Noonan notes, the courts frequently pretend that they are not themselves part of government. In fact, they are that part of the government that assumes that "the courts themselves are sacred." Noonan writes, "Performing these tasks that they have determined to be allotted them by the First Amendment, the courts unselfconsciously place themselves above any church or creed." That is precisely what Madison intended free exercise to prevent. He declared that citizens had a "prior obligation" and "natural right" to acknowledge a sovereignty higher than the sovereignty of the state. The genius of his innovation was to insist that, with respect to the exercise of that obligation and right, the government has no legitimate "cognizance." The Founders were keenly aware that the free exercise of religion was qualitatively different from religious tolerance. "Tolerance," writes Noonan, "is a policy, an acceptance of religious difference because it's more trouble than it's worth to eliminate it, a prudential stance of wise statesmen. It is something else to inscribe in fundamental law an ideal of freedom for the human activity most potentially subversive of the existing order."

The free exercise of religion is most potentially subversive because it proclaims a sovereignty that "stands against the sovereignty of the state." Noonan writes, "Each individual's religion 'wholly exempt' from social control? No qualifications whatever on the right and duty to pay homage to God as one sees fit? Surely, in the heat of battle, Madison exaggerates! No, his theological premises compel these radical conclusions." The last point touches on a matter central to Noonan's argument, namely, that the free exercise of religion is, in the main, a religious achievement. This is explicitly proposed against the received wisdom that religious freedom—usually construed as tolerance—is the achievement of the secular Enlightenment *against* religion. In carrying this point, Noonan the historian is on impressive display.

John Noonan, it must be admitted, evidences a peculiar mix of liberal and conservative sensibilities. He wants to conserve the original understanding of free exercise, at least in large part because religious freedom is an inexpendable lever for challenging the established order. Like the civil libertarians of the ACLU persuasion, he presents himself as being reflexively on the side of the underdog. On the other hand, the underdog today is the social and moral conservatism that seeks to challenge regnant liberalisms, also in the courts. So Noonan's conservative jurisprudence in the service of liberal ends may be most immediately useful to contemporary forces generally called conservative. Ironies are compounded by the fact that those conservative forces are generally sympathetic to the use of religion to reinforce the established order, or at least to reinforce what they think once was and should be again the established order. Noonan has little but contempt for such use of religion, and is most polemical in his argument against laws prohibiting the "desecration" of the flag. In his view, the idea of the flag as a sacred object is little short of idolatry, and laws to protect it from "desecration" clearly violate the dangerously subversive free exercise guaranteed by the Constitution. Many conservatives will be cheered by Noonan's respect for the constitutional text and his championing of their right to challenge existing patterns of liberal judicial usurpation, as they will also be unhappy with his hostility to the purposes for which conservatives would employ that challenge. But that is the way it is with a free exercise of religion that testifies to a sovereignty that cannot be captured either by the state or by the parties that would control the state.

### *A Potentially Dangerous Idea*

*The Lustre of Our Country* is oddly put together. It begins with an engaging autobiographical sketch

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of the Catholic author coming of age under the shadow of Puritan Boston. From his early years, especially under the influence of his father, Noonan was what in intra-Catholic discussions is known as a liberal. His father and he never had any use for what was taken to be the official Catholic position of the time, that the American pattern of religious freedom was a "hypothesis" to be tolerated until Catholics became strong enough to establish the "thesis" of a Catholic state in a Catholic society. The auto-biographical sketch is followed by an examination of the limits and contradictions in the Puritan idea of religious freedom, to which he contrasts Madison's "original insight." A chapter is devoted to a letter "discovered" by Noonan and supposedly written by Tocqueville's younger sister who argues that her brother was right to view religion as "the foremost institution" of American democracy, but wrong in claiming that the "separation of church and state" is, in fact, the American reality. Employing various literary techniques, sometimes eccentric but always fascinating, Noonan then retells key cases in which the Supreme Court has tied itself into knots by regulating religion, with the result that it ends up in ludicrous efforts to adjudicate the sincerity and truth of religious claims—exactly the claims that Madison declared to be none of the government's business.

On the "subversive" dimension of free exercise, Noonan recalls four "crusades"—the abolition of slavery, the war against Mormon polygamy, the prohibition of alcohol, and the civil rights movement under the leadership of Martin Luther King, Jr. Curiously, he does not include a fifth crusade, that against the abortion license of *Roe v. Wade*, on which he has written elsewhere with great persuasive effect. Opposition to the abortion license is usually viewed as a conservative cause, and perhaps Noonan did not want to let the rest of his argument be taken hostage to ideological labeling. Or perhaps he does not think the pro-life movement is a "crusade" comparable to the earlier movements he describes. If that is the case, one wishes that he had argued it. The absence of abortion from his discussion is deeply puzzling, since it is undoubtedly the most fevered question joining religion and religiously grounded morality in legal and political dispute today.

Throughout this and other books, Noonan leaves no doubt that the free exercise of religion is a potentially dangerous idea. Madison and most of the Founders believed that the entire constitutional order, this *novus ordo seclorum*, was contingent upon taking that risk. Noonan worries that we Americans, with the courts in the lead, may now have lost our nerve for it. Implicit in that loss of nerve, he suggests, is an acceptance of Durkheim's view that religion is essentially a function of society, something to be used and tolerated to the extent that it serves "the sacred society." He very effectively makes the case that a functional view of religion—the claim that religion is a creation of society and designed to provide moral legitimacy for society—can be maintained only by determinedly ignoring the actual intentions of people who are religious. That willful blindness is another instance of neutrality-as-a-mask, and it is made more objectionable by the fact that judges, operating under the guise of neutrality, routinely smuggle in their own beliefs that are religious in nature if not in name.

Nonetheless, Noonan is by no means ready to give up. For all the missteps along the way, the American commitment to the free exercise of religion is still a "success." Against what he views as the false humility of many Americans, he urges a forthright acknowledgment that religious freedom is this country's foremost contribution to the world's understanding of just government. In advancing that claim, he devotes chapters to four contrasting case studies: the French Revolution's affirmation and betrayal of the American idea of religious freedom, the American imposition of the idea on a defeated Japan, Russia's current and deeply flawed efforts to incorporate the idea, and the American influence in the Second Vatican Council's teaching on religious liberty.

*The Lustre of Our Country* is erudite and instructive, frequently whimsical and typically wise. I expect other readers will share my frustration with aspects of the argument. At times Noonan seems to conflate freedom of religion with freedom of conscience. There are similarities, to be sure, and there are also big differences. Freedom of conscience is easily reduced to radical individualism, ending up with what Noonan rightly deplores as the courts' common depiction of religion as a private aberration to be tolerated insofar as it does not interfere with government purposes. The conflation also invites the subsuming of religious freedom into constitutional guarantees of freedom of speech and other provisions that ignore religion's necessarily subversive witness to a higher sovereignty. Noonan is apparently unhappy with the Supreme Court's recent striking down of the Religious Freedom Restoration Act, which many view as almost tantamount to repealing the Religion Clause, but he offers no suggestion of other legislative remedies for judicial hostility to religion. This is a matter of some importance, since Congress is at this moment working on another effort to produce such remedial legislation.

Friends of religious freedom have pressed for a restoration of the principle that religious claims should be privileged, and overriding such claims should be dependent upon the government being able to demonstrate that there is both a "compelling" interest and no less intrusive way for that interest to be served. Noonan notes that, in fact, courts have routinely ruled that almost any government interest at all is sufficient to override the free exercise of religion. One wishes he had more directly taken on

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the arguments of Justice Antonin Scalia, who appears to speak for a majority of the Court on this question. Scalia is frequently depicted as a champion of raw majoritarianism for whom the Religion Clause is little more than a vestigial and inconvenient appendix. I expect his views on religion and law are considerably more interesting than that, and since he is such a dominant voice on these matters, it would have been helpful if Noonan engaged him more directly. On the other hand, it may be less than politic for a judge of a circuit court to challenge so frontally a justice of the Supreme Court.

### *Development of Doctrine*

The present book provokes speculation about the assumptions underlying Noonan's judicial philosophy. He is clearly a "textualist," as is evident in his insistence upon the one Religion Clause and his opposition to pitting the "two clauses" against each other. And he is an "originalist" in his devotion to the radical intention of Madison and those responsible for the First Amendment. Yet at other times he seems to want the judge to be something like a philosopher king. His epilogue proposes "Ten Commandments" for people dealing with religious freedom, including the admonition that "you shall know that no person, man or woman, historian or law professor or constitutional commentator or judge, is neutral in this matter." Fair enough. He is right to insist that, with respect to religion and much else, but especially with respect to religion, imagination and empathy are required. "Can a judge be a pilgrim?" Noonan asks. He answers in the affirmative, and I agree. But *as a judge* he should strive to read the law, to be objective, and, yes, neutral. Safety from judicial usurpation rests not so much in having judges who are better philosophers as in having judges who recognize that, as Mr. Madison would say, there are questions not within their cognizance.

Both suggestive and problematic is Noonan's persistent drawing of parallels between judicial interpretation and John Henry Newman's theory of "the development of doctrine." In this connection he offers his extended treatment of the development of Catholic teaching on religious freedom at Vatican Council II. Clearly, Noonan has no use for the exponents of a "living Constitution" who declare, in effect, that the Constitution is dead because it means whatever the courts say it means. Just as clearly, there are parallels between what judges do and what church councils do. Both are involved in trying to understand a "sacred text" as it relates to current problems and understandings. A crucial difference, however, and a difference one wishes Judge Noonan addressed more directly, is that church councils—at least in the Catholic understanding of things—are promised the guidance of the Holy Spirit.

Noonan misses important opportunities in his treatment of Catholic teaching. He fully appreciates the immeasurable contribution of Father John Courtney Murray to the Council's declaration on religious freedom, and he is right to claim that this was a distinctly American contribution to the teaching of the universal Church. But there is no mention at all of the ways in which the understanding of religious freedom—precisely as a religious achievement—has been greatly deepened and elaborated by this pontificate, notably in encyclicals such as *Centesimus Annus, Evangelium Vitae*, and *Veritatis Splendor*. And this reader at least is not persuaded by Noonan's tendency to view the "development" of doctrine as a change, or even a reversal, of doctrine.

It is all too easy to compare, for instance, the texts of the nineteenth century "Syllabus of Errors" with current magisterial texts and show the verbal and policy differences, even contradictions. More effort is required to demonstrate the continuity and internal coherence that Newman described as the *development* of doctrine. As Noonan debunks the Durkheimian sacralization of political society, he also tends to politicize the workings of the sacred society that is the Church. That is certainly not his intention. He has a very effective passage on how the political maneuverings of the Council are consonant with an "incarnational" understanding of the way God works. But in accenting the discontinuities produced by such maneuverings, the affirmation of God's incarnational ways seems to be a naked act of faith unsupported by historical evidence.

But let me not leave the wrong impression. The questions and arguments provoked by *The Lustre of Our Country* testify to its great achievement. Judge Noonan understands, as very few judges and constitutional scholars do, the founding genius of the American experiment. He knows and persuasively explains why those sixteen words of the First Amendment continue to be this country's most innovative, audacious, and promising contribution to the world's understanding of the right ordering of political society.

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## PAPAL POPULARITY

I came across it again the other day, the flat assertion that Pope John XXIII was the most widely loved and admired Pope of the modern era, and perhaps of the Church's entire history. I do not wish to detract from his undeniable stature by entering a modest demurrer. One cannot help but note that such assertions are usually made by Catholics who

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identify with the "progressive" interpretation of the Second Vatican Council, and usually in the context of an invidious comparison with Paul VI and, especially, John Paul II. Among Catholics of a liberal disposition, who are a relatively small minority, and among folk in the media who follow their lead, it seems to be the case that John XXIII is the most loved and admired of modern Popes. That I think is the more accurate statement. And, it should be added, among such he is typically depicted as a proponent of the radical changes they typically espouse, a depiction that has slight basis in fact.

John was Pope for a relatively short time (1958-1963), while John Paul II will be in the chair of Peter for twenty years come this October. John's inestimable contribution was to convoke the Council on which subsequent pontificates have built. The idea of a papal popularity contest is unseemly and should not be encouraged, but, just for the sake of accuracy, can there be any reasonable doubt that John Paul II is known, loved, and admired by more people than any other Pope in history? It is not terribly important to say that, and I would not say it at all, were it not that some people think it so important to deny it.

The immediate occasion for this reflection is a fine new book by David Aikman, an evangelical Protestant and former *Time* magazine correspondent, *Great Souls: Six Who Changed the Century* (Word, $22.95). He offers winsome profiles of six "great souls": Billy Graham, Mother Teresa, Aleksandr Solzhenitsyn, Elie Wiesel, Nelson Mandela, and John Paul II. Of the last he writes: "Billy Graham has said of Pope John Paul II, certainly with accuracy, that he will 'go down in history as the greatest of our modern Popes. He's the strong conscience of the whole Christian world.' I respect that judgment, but for me it doesn't go far enough. I am not a Roman Catholic, and I certainly share many of the Protestant reservations about some aspects of Catholic doctrine and some forms of Catholic devotionalism. Yet it is my view that Pope John Paul II, in his profound spiritual depth, his prayer life, his enormous intellectual universe, his compassion and sympathy for the oppressed, and above all in his vision of how Christians collectively are supposed to live, is the greatest single Christian leader of the twentieth century. When he is gone, he may well be viewed, quite simply, as one of the most exemplary figures in all of Christian history."

Of course, one can disagree with Aikman's judgment. Or one can agree, as I do. But agree or disagree, one should do so, I believe, without making invidious comparisons between John XXIII and John Paul II, two who are undoubtedly great souls as well as great Popes.

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# Swiss Gold, and Chinese

Over the last couple of years there has been a great to-do over the ways in which the Swiss turned their World War II neutrality into a very good thing. The formidable A. M. Rosenthal of the *New York Times* recently wondered out loud whether fifty years from now the same questions might not be raised about U.S. dealings with China. President Clinton, the U.S. Chamber of Commerce, and the National Council of Churches appear to take the position that what's good for corporate America is good for the world. Human rights, and religious persecution in particular, must not be permitted to interfere with that new world order. Those who disagree will be interested, and others should be interested, in the following report from the March 28, 1998 issue of the London *Tablet*, an international Catholic weekly. The author is Cecilia Bromley-Martin, press officer for Aid to the Church in Need. (Reprinted with permission.)

### Going Underground in China

In the bitterest conditions I have ever known, my three colleagues and I waited for our secret contact. Tourists thronged around us, so our Western faces were unlikely to bring any suspicion as we climbed into a jeep and drove away.

After many miles—seven of us crushed into the ancient four-man vehicle—we finally arrived at a poor and remote house. As we were ushered speedily inside, the husband welcomed us. His wife was cooking and their daughter played with a friend in her room—but beyond, behind closed doors, we found a dozen young men, preparing for China's clandestine priesthood.

These students are just one small group of an "underground" seminary, forced to abandon its own diocese when the persecution there became too severe. They have been dispersed and the groups are anything up to three hundred miles apart. They have one spiritual director, a priest. He is thirty.

After celebrating Mass together in a small, concrete shed with a makeshift altar, decorated with ferns in an old drink can, we crowded into their cold bedroom. Through clouds of breath, drinking boiling water from jam jars to keep us warm, we heard about the life of China's illegal Catholics.

One young priest, in charge of this group of seminarians, told us that there seems to be a three-year cycle—three years of relative calm, then three years of persecution. All the seminarians we met are wanted by the authorities.

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But it is not just priests and nuns who suffer for their faith. Every Catholic who gave us food, a bed, or transport took a great risk. In one diocese, about eight hundred people used to meet in a Christian's courtyard for Mass, but the police found out and put the owner in prison, where he has become semi-paralyzed. Four houses with crosses on top were confiscated, without compensation; three are now being used as schools, and one is being used by the local government. A recent operation known as "Strike Hard" was specifically devised to reduce and control underground Catholics.

It is estimated that China has twelve million Catholics—roughly 1 per cent of the population. For forty-five years, the Communist regime attempted unsuccessfully to crush the Church—Mass was forbidden, loyalty to the Pope outlawed, and priests imprisoned or executed. Eventually, the authorities compromised and set up the Patriotic Association to monitor a state Catholic Church answerable to China rather than Rome. Many Catholics, exhausted by years of punishment, felt the only way they could practice their faith was to join this official Church; but for countless others, to be Catholic and not remain loyal to the Pope was inconceivable. These went "underground." Yet no foreigner will ever fully comprehend the complexities of China's divided Church. Two-thirds of the country's official bishops have been legitimized by the Pope, and whilst in some dioceses the "patriotic" and clandestine bishops do not communicate in any way, we met one underground bishop who shares the home of his official counterpart. It is well known that many future secret priests train in the official seminaries. One bishop told us that the majority of the bishops are good, but "the rest are weak Communist puppets."

Even the official Church is by no means left in peace. The "archangels"—as they facetiously call the officials who watch their every move—stamp their mark on every aspect of church life. Christian cemeteries are illegal, no rank higher than bishop is permitted, male orders are forbidden, and only "useful" female orders are allowed: contemplatives are considered a waste of time.

We met a group of underground novices. So great is the danger of discovery that—enclosed in small, dank farm buildings lent to the thirty-nine-year-old bishop by a brave peasant farmer—the young men are unable to leave the compound during the whole two years they are there. Traveling only under the cover of night, we were able to visit this seminary.

Their day starts in the chapel at 4 A.M. They pray for nine hours a day and can talk to each other for only fifty minutes. Breakfast, a sort of porridge, is at 8:20 A.M., with dinner (vegetables) at 4:10 P.M. On Fridays they miss breakfast, and twice a week they live on just bread and water. They never have meat or eggs. "We think that our standard of life should be lower than that of the average Christian," one told us. "We don't usually notice the lack of food because the prayer makes us feel closer to God."

Wherever we went, underground priests, nuns, and seminarians smilingly accepted that they would probably serve at least one prison sentence for their vocation. None was frightened. We met another young priest who had been sent alone to one of the poorest areas of China, with scarcely any Christians—now, five years on, there are one thousand. In winter, the temperature plummets, and he has forty-six outstations to visit in an area of 2,500 square miles. He gets around on an old motorbike, but when it's icy he walks. "Are you happy?" I asked him. His smile was radiant, huge: "I am very happy as a priest. I meet people who have no goal in life, and when they convert and they are blessed, I see how happy and fulfilled they are, and that makes me happy."

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# AT EASE IN ZION

*Woe to those who are at ease in Zion* (Amos 6).

I was speaking at Princeton a while back and had dinner with a group that included a number of Lutherans and one Methodist who had recently become Roman Catholic. They declared themselves utterly convinced of everything the Catholic Church teaches, but where, they wanted to know, does one find the Catholic Church at worship? They had a long list of horror stories from Masses at suburban parishes with wannabe Jay Leno priests, guitar-twanged Andrew Lloyd Webber show tunes, and song-leader soloists strutting their stuff. On the train back from Princeton I read Edward Farley of Vanderbilt Divinity School writing in *Christian Century* on the current state of Protestant worship. It was a continuation of the dinner conversation.

"Though prayers, music, and sermon may treat solemn and sacred themes of grief, suffering, evil,

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redemption, and hope, these themes arise from and then resubmerge into a stream of comfortable and casual pleasantness. This pleasant mood disengages these things from adoration and neutralizes and tames the Mystery. Most of the things done on Sunday morning do not seem to be directed toward adoration. Judged by the mood and ethos, the primary concern and referent of this hour is something other than the sacred.

"Without wanting to idealize earlier periods of Protestant ritual, I do wonder what has caused worship to become like this. Is it the outcome of a long historical process in which the Protestant movement failed to discover how to relate proclamation to sacramentality, how to retain both iconography and iconoclasm? Is the essence of Protestantism the replacement of adoration with proclamation, where grace comes by listening, not adoring? Is Sunday morning the result of the Protestant opposition between faith and works, an opposition that assigns ritual activities and even the act of adoration to 'works'? Has the Protestant fascination with the forensic problem of release from guilt edged out acts of adoration? Is Sunday morning the result of the displacement of older pieties by civil religion, the therapeutic, the culture of narcissism, or social protest? Have contemporary churches been infected by the entertainment orientations of the electronic church and the new megachurches created by nondenominational entrepreneurs?

"I cannot say. I have no villains in mind. Ministers, music directors, worship and congregational leaders have not deliberately conspired to bring about this state of affairs. Protestant congregations have become devoid of worship as various features of contemporary culture have formed congregational life. The casual, happy, amused, and chatty Sunday morning has crept up on us unawares. If it is here to stay, at least for a while, perhaps congregations face the difficult task of creating another time or event in their ritual life when people gather to adore."

That about sums it up: "Casual, happy, amused, and chatty." I told my Princeton friends that I have witnessed some of what they deplore, but my general experience, beginning with my own parish in Manhattan, Immaculate Conception, is that of the Mass done with great dignity and reverence for the eucharistic mystery. And I do get around to parishes in other parts of the country. They countered that the parishes that would invite me are probably pretty good to start with, or clean up their liturgical act when I'm around, and there may be something to that. A former Lutheran in Virginia who became a Catholic a couple of years ago says, "I thought I was joining the Catholic Church, and then discovered I had joined the Diocese of Richmond."

In truth, he and the Princeton folk all say they have found places where the Mass is done as one might expect Catholics to do it, but, they insist, it isn't easy. One found an ethnic inner-city parish, another goes to a nearby monastery, and yet another attends an Eastern rite parish. One says she has even found a large suburban parish where the people actually kneel during the canon, the priest refrains from ad-libbing the prayers, and there is regular exposition of the Blessed Sacrament. But that, all declare, is the great exception. These people, be it noted, are not "traditionalists" or fans of the Tridentine Rite. They are simply looking for the Mass to be celebrated in a way consonant with what the Church teaches and not disdainful of the liturgical and musical treasures of the Catholic tradition. That doesn't seem like too much to expect, and, for all the banality of the English texts, it can be done eminently well with the Order of Mass in common use.

There was a time, not all that long ago, when people were attracted to the Catholic Church by the mystery, splendor, and fervent devotion of its worship. I count myself among the many who were formed by the liturgical renewal pioneered by leaders such as Monsignor Martin Hellriegel and embraced by the Second Vatican Council. What happened to that renewal is by now a familiar story, involving liturgists who confused the discovery of the human in worship with the worship of the human, ecumenists who felt obliged to love all traditions but their own, and episcopal bureaucracies that became establishment enforcers of perpetual change.

These developments were and are very profitably exploited by publishing empires in places such as Chicago and Portland that peddle to parishes an uninterrupted flow of musical tackiness premised upon the equation of progress with vulgarity, and all designed to put God's people at ease in Zion. It is called pandering, but it is by no means evident that the pandering is appreciated by those being pandered to. The Mass as entertainment is, well, mildly entertaining. One may wonder if there is anything so sure to induce passivity in most of the people as the exhortations to hyper-activity in Father Bob's performance liturgy. Not, mind you, that the Mass was done so well thirty years ago. That's why the Council called for renewal. More than thirty years later, the call would seem to be more pertinent than ever. (The best and hilariously devastating sendup of the current state of Catholic worship is Thomas Day's *Why Catholics Can't Sing*. It ought to be mandatory reading for all priests, seminarians, and music directors.)

In the last several years there has been a dramatic but little-remarked increase in the number of converts coming into the Church, and I am in regular conversation with Lutherans, Anglicans, Presbyterians, and others who are contemplating

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that momentous step. As one might expect, many have reasons for hesitation. I have never encountered anyone who has problems with the Church's moral teachings or with issues such as women's ordination. The Church's position on such questions is generally a definite attraction. There are two common obstacles. One is papal infallibility. That is a good problem to have, for thinking it through leads to a deeper understanding of ecclesial authority, the development of doctrine, and Christ's promise that the Holy Spirit will lead his Church into all truth (John 16). But an obstacle as common, if not more common, is the state of Catholic worship. That ought not to be.

The Catholic Church gladly acknowledges the grace of God to be found outside its boundaries. With equal clarity, it teaches: "Whosoever, therefore, knowing that the Catholic Church was made necessary by God through Jesus Christ would refuse to enter her or to remain in her could not be saved." (*Lumen Gentium*, 14) That poses the crucial point of decision. I regularly remind inquirers of Flannery O'Connor's remark that one is called to suffer ever so much more from the Church than for the Church. That will likely continue to be the case. And a reminder is always in order that some of the tales of liturgical horribles are probably exaggerated for effect. Nonetheless, as the prophet Amos might say: Woe to those who create an obstacle to the fullness of Catholic communion by the liturgical kitsch of Masses that are "casual, happy, amused, and chatty."

I have heard the objection that this is merely a matter of aesthetics, to which one answer is that aesthetics is not mere. Another answer is that a cultivated indifference to bad taste should not be a price exacted for becoming a Catholic. The most important answer, however, goes beyond taste to belief. A former Lutheran pastor tells me, "I had read the Catechism and Balthasar and the great doctors of the Church and was completely convinced by what they said about the Mass." Then she visited the neighboring Catholic parish. "From the way the Mass was celebrated, I just couldn't believe that they believed what they said they believed. That was the biggest stumbling block in the way of my becoming a Catholic." She overcame it. But why did she have to?

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# ERNST KÄSEMANN, RIP

*One of the most influential Protestant biblical scholars of the century, Ernst Käsemann, died this past February at age ninety-one. There was no notice in the press here, which is not right. I asked Paul F. M. Zahl, Dean of the Cathedral Church of the Advent (Episcopal) in Birmingham, Alabama, to pen a brief tribute. He was both a student and personal friend of Professor Käsemann.*

Ernst Käsemann was born July 12, 1906 in Dahlhausen near Bochum. He said that his childhood was "alone and joyless." Having studied theology at Bonn, where he was influenced by Erik Peterson (whose conversion to Roman Catholicism in 1930 jarred him deeply), Käsemann met Rudolf Bultmann at Marburg in 1925. Bultmann was his teacher and colleague until 1965, when Käsemann broke with Bultmann over the "anthropological," i.e., subjective, tilt of Bultmann's thought. From 1959 to 1971 Käsemann was Professor of New Testament at Tübingen.

He served in parish ministry from 1933 to 1946. In 1937 his preaching against the Nazi ideology drew the wrath of the Gestapo and he was imprisoned. He was the last of his generation of German Church resisters to Hitler, a generation of whom, with the exception of Dietrich Bonhoeffer, almost nothing is ever said in the United States.

Käsemann considered himself a revolutionary "partisan," campaigning against idolatry on every front. His confrontation with the Gestapo in 1937; his conflict in the 1970s with the "Pietists," who believed that he denied the bodily resurrection of Jesus; his public sympathy with student radicals in 1968; the fact that his daughter Elizabeth became a political revolutionary in Argentina and was killed by the junta there in 1977: these and other important moments in a life that can be properly described as almost "world-historical" were all shaped by the metaphor of *struggle* against the principalities and powers.

On the scholarly side, Käsemann was a founder of the "second quest" for the historical Jesus and was a leading theologian of St. Paul. The inner core of all his written work was a highly individual reception of justification by faith. If Käsemann was a partisan of the partisans, he was also a Reformation theologian par excellence. He did not mind being called a *Gnesio-Lutheraner* (a "purist of the Lutherans"), although he really wasn't. He was too combative to be held to any single school of thought.

Käsemann's last letter to this writer was dated Reformation Day 1996. The next-to-penultimate paragraph stands as a moving testament to his understanding of what it means to be an authentic warrior for Christ:

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> Whoever took part in the German Church struggle [i.e., of 1933-1939] was a very individual partisan. I was one, too. I stood in the pulpit and right in front of me, in the gallery and below in the chancel, sat the Gestapo and the Nazis. You won't believe how much of an individual I felt then! To preach Heaven and to have Hell right before your eyes in the person of its legates. . . . A thousand listeners were asked, at the highest pitch of individuality, to what end they were listening. . . . We represented our Lord and we risked His cross. We were called revolutionaries and were dealt with accordingly. But the Kingdom of God is revolutionary!

FT

# While We're At It

■ Many years ago Woody Allen's *Sleeper* had this fellow waking up two hundred years later in a newly health-conscious world where it had been discovered that the very best things to do were to smoke a lot and eat plenty of ice cream. Maybe we don't have to wait two hundred years. A few weeks ago there was that huge longitudinal study, the biggest thing ever done to study people's health over decades, which determined that the one variable that made a significant difference for the better was having a drink or two every day. And now the *Journal of the American Medical Association* reports that long-term studies in the U.S. and Japan indicate that men who eat more fat, including more saturated fat, are less likely to suffer a stroke. Science and a health-obsessed culture appear to be at cross purposes, sometimes posing hard choices. Like last week's announcement of a pill that can reduce balding, but at the risk of causing impotence. Why be attractively hirsute if you can't handle the consequences? It is no secret that I enjoy a good cigar, and will make do with a bad one if circumstances demand. Some months ago I opined in this space that nobody knows if the world would really be a better place if nobody smoked. That sent the Adventist magazine *Liberty* into a tizzy. Their editorial blast against my heresy was accompanied by a cartoon depicting me on chummy terms with Joe Camel. All I meant to say is what I believe, namely, that a world without cigars and pipes may be a world with a great deal less personal happiness. As for cigarettes, I hold no brief for the habit but am appalled by the way a culture once noted for its rugged individualism has pusillanimously surrendered to the extremists of the new prohibitionism. I confess that my disposition is powerfully shaped by the spectacle of a society that has declared open season on unborn children and celebrates a subculture based on sticking sexual plumbing into inappropriate orifices rigorously imposing its last moral absolute: no smoking. And I have been influenced by the experience of nearly dying (some thought I had died) of cancer five years ago, which has put me on much friendlier terms with mortality. In any event, and lest the folks over at *Liberty* get themselves excited all over again, this space does not purport to offer medical advice. I do think moral and intellectual health is greatly improved by cultivating a robust skepticism toward medical agitations in service to the delusion that, if we are careful enough, some of us might get through life without dying.

■ Reviewing Don Cupitt's *After God: The Future of Religion*, professor of theology Dennis Nineham begins with a question: "How is that Don Cupitt, one of the most learned, acute, lucid, and intellectually stimulating theologians of his generation, has received virtually no public recognition, either in his own place (Cambridge) or any other?" In his book, Cupitt contends that the word "God" has no objective referent, being a vestige of the monotheism human beings constructed after they left the hunter-gatherer phase of evolution. In our enlightened time, we see "that everything, including all linguistic meanings, truths, values, and indeed reality itself, is a slowly evolving consensus product with no objective basis." Any other questions, Professor Nineham?

■ A Canadian paper reports that an Anglican church in downtown Toronto is trying "a novel approach to attract new members." St. Stephen-in-the-Fields advertises that it offers a "warranty" that it welcomes everyone, regardless of class, sexual orientation, or marital status, and "will not tell you how to dress, feel, or act." Now why hasn't someone thought of that before?

■ The Charitable Choice provision in the latest welfare-reform law allows the government to contract also with religious organizations to provide social services, which of course sends Barry Lynn of Americans United for the Separation of Church and State into his usual snit. The law, he says, will force people "to be good or religious." Being good or being religious, or even being both, might strike some as a not bad idea. James Skillen of the Washington-based Center for Public Justice says Lynn has got the law all wrong: "Lynn's fears are so strong that he can't even read the law correctly. The Charitable Choice provision specifically stipulates that eligible recipients do not have to go to a religious provider for services. And if they do go and find that they don't like what they hear, they are free

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to go elsewhere or to stay and refrain from participating in the full program of the agency. No one is forced to do anything. The truth is that it's the old and dying system defended by Lynn that exerts illegitimate force on people. Think of it this way. What about all those citizens for whom faith is a full-life matter? When they are eligible for welfare services, the only option Lynn thinks they should have is one separated from their religious faith. In the name of equal treatment and religious freedom, Lynn would exclude many citizens and service organizations from full participation in public life. The Charitable Choice provision does just the opposite of forcing people to become religious. It opens real choice to all Americans by stopping the discrimination against religious groups. If government allows a full diversity of groups to participate in providing services, and if it makes sure people are free to choose their service provider, then no one is forced to be religious. Government simply complies with the Constitution's true demands, which are to protect religious freedom and to refrain from establishing any religion. . . . The time has come for Barry Lynn to put the sixteenth and seventeenth centuries behind him and to become a genuine, twentieth-century public pluralist—someone ready to advocate real religious freedom for all Americans under a government that does not discriminate against either believers or non-believers. It is time for Americans United to join the fight for justice."

■ There are all kinds of loose hymnals floating around in Catholic circles, and Don Schenk of Allentown, Pennsylvania, who is responding to Father Avery Dulles' article on "The Ways We Worship" (FT, March), is not amused by one called *Gather*. In his parish the Sunday before he had to endure number 719, which asked him to sing a complaint about "dogmas that obscure your plan." The galling thing is that it was set to the tune of "Tantum Ergo," the hymn composed by Thomas Aquinas for the feast of Corpus Christi. As in the dogma of the Real Presence.

■ Johannes Baptist Metz is a serious theologian, and his little devotional reflection, *Poverty of Spirit*, has been cherished by many. Here is an announcement that it has now been reissued in an "inclusive-language version." Poor in spirit and rich in correctness. The publisher's blurb says, "The only image we have of God is the face of our neighbor; thus it is in our relationship with others that we find our salvation." Paulist Press would be well advised to check that out with St. Paul. In fact, they might check it out with Father Metz.

■ Riches upon riches from Paulist Press. *A Buddhist Life in America* by Joan Halifax, with an introduction by Ronald Thiemann of Harvard Divinity School. The publisher says that Miss Halifax is "the spiritual successor to Joseph Campbell." I think that is meant as a recommendation.

■ Popular writer Paul Wilkes has a new book, *The Seven Secrets of Successful Catholics* (Paulist). It comes with the following guarantee from Father Robert Drinan, S.J.: "The fortunate people who read this precious book will not only be successful but will have joy and tranquillity in their lives." Lawyers of disappointed buyers can contact Father Drinan at the Georgetown University Law Center.

■ Stephen A. Wise, grandson of the famous Rabbi Stephen S. Wise, asks why Dietrich Bonhoeffer is not honored as a "righteous gentile" at Yad Vashem. There is no doubt that Bonhoeffer, a Lutheran pastor and theologian, courageously spoke out for the Jews as early as 1933, was actively involved in the rescue of Jews, and paid with his life when he was executed by the Nazis in April 1945, only a month before war's end. Officials at Yad Vashem tell Mr. Wise that recognition can be granted only for assistance to Jews "still adhering to the Jewish faith." The claim is that the Jews rescued by Bonhoeffer were either nonpracticing or had converted to Christianity. Wise points out that the Nazis did not make such nice distinctions; a person with even one Jewish grandparent or great-grandparent was slated for destruction. He adds, "What then does 'adhering' mean? And what is the measure of adherence: Orthodox Judaism? Conservative? Reform?" Good questions all, and deserving of a more credible response from the people in charge of Yad Vashem.

■ Tantalized by the death watch. The editors of *National Catholic Reporter* view this pontificate as an instrument of unspeakable oppression, but they have not given up hope. "The lure of hope is eternal. The current silent acquiescence of theologians and church leaders may be hiding a multitude of new ideas and aspirations. Every day, opinions and attitudes are being formed that will find expression and life only when this Pope has passed to his reward. This is not to say Catholicism is relative, a menu that changes, or that each Pope founds a new religion. But history shows how tantalizingly the Church has evolved from one papacy to the next." Aw c'mon, admit it, a new religion would be really neat.

■ Poor Andrew Carnegie. He gave away zillions in an undoubtedly sincere passion for world peace. After establishing a couple of foundations that he thought were not going about it the right way, he gave what was then a megafortune to establish the Church Peace Union. When I worked with it in the 1970s, it was called the Council on Religion and International Affairs, and there Jim Finn and I edited what I continue to think of as a worthy but short-lived magazine called *Worldview*. The

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organization has again been renamed as the Carnegie Council on Ethics and International Affairs and continues to operate out of its elegant houses on East 64th Street as a lunch and chatter center for people in the international affairs "community." The uncertainty of its mission is reflected in the instability of its name. But then, uncertainty and instability are the fate of institutions in the world peace business. When he established the Church Peace Union, Carnegie wrote a letter to the distinguished trustees pointing out that, through the bonds of sacred commerce with our imperial cousins in Great Britain and Germany, the abolition of war would be achieved sooner than most people thought, and therefore, when their goal was reached, the trustees should give the remaining funds to the deserving poor. Needless to say, the deserving poor are still waiting. Carnegie's letter was written in the summer of 1914. Now I see that another of his foundations, the Carnegie Corporation, has come out with a book, *Preventing Deadly Conflict*, which is the product of ten years' labor and the expenditure of 9.5 million dollars. The project was overseen by a most distinguished commission composed of former Secretary of State Cyrus Vance, the former prime minister of Norway, and many other noted formers. The commission was advised by thirty-six scholars and "eminent practitioners," and had a huge bash of a coming-out party at the Willard Hotel in Washington, which was duplicated in other capital cities around the world. This monumental study has concluded that "the need to prevent deadly conflict is increasingly urgent," and "preventing deadly conflict is possible." It also discovered that "peace and equitable development will require not only effective institutions, but also greater understanding and respect for differences within and across national boundaries." Religious leaders are urged to "undertake a worldwide effort to foster respect for diversity," to avoid conflicts, and to "censure co-religionists who promote violence." Were he still around, Andrew Carnegie might consider establishing yet another foundation, perhaps reviving that fine old name, the Church Peace Union.

■ The German government has been giving the Church of Scientology a hard time, refusing to recognize it as a legitimate religion. The Scientologists, in response, have been running full-page ads in this country around the theme once-a-Nazi-always-a-Nazi, portraying themselves as martyrs to religious freedom. Governments are very bad at defining what is and what is not legitimate religion, and I don't know what Germany should do, but my impression is that Scientology is, among other things, a money-making scam built on a set of psychic placebos that the late L. Ron Hubbard peddled as "Dianetics." The Scientologists run "celebrity centers" which have had a notable appeal for Hollywood types in search of who they are apart from being celebrities. Dianetics offers high-priced treatments that allegedly help people discover their true selves and take control of their lives. The *Wall Street Journal* recently ran an item critical of Scientology and what the paper thought to be its dubious tax-exemption granted by the IRS. David Miscavige, chairman of the outfit, wrote a long letter of protest offering what he apparently thinks are cogent arguments, including this: "If you are so *right* about everything, why don't you try and run for President, and put *yourself* in the public arena and see if the American public votes for *you*?" One suspects that Mr. Miscavige is overdue for his next treatment.

■ A recently retired Navy officer responds to the comment (March) on the editorial in *Strategic Review* urging resistance to new rules about women in combat. He sends along the official "instruction" on the matter issued by the Department of the Navy and has this to say: "This instruction is hard policy, and the equal opportunity phrase gives it large teeth. Those who disagree cannot be viewed as supporting and being proactive in attaining the Navy's equal opportunity goals. Officer fitness reports and enlisted performance evaluations both require comment on equal opportunity performance; a less than stellar grade was a career killer before I retired from the Navy [recently] and is more so now. If I were still on active duty, I would feel duty bound to grade adversely a subordinate who expressed disagreement, for any reason, with this policy. I am very thankful that I have been spared that experience! I reckon that those who share my professional and, perhaps, my moral reservations about women in combat are leaving the Navy at the first opportunity. It is clearly imprudent to stay in the service if one has any reservations about the role of women. It is also dishonest to oneself, to one's shipmates, and to the Navy to pretend to wholeheartedly support the Navy's policy while inwardly opposing it; an honorable man should complete his obligated service and then resign."

■ Call it quixotic, but it brightens the day. The Phillip Morris company gave $40,000 to Belmont Abbey College, a small Catholic school in Belmont, North Carolina. The money was to fund an adult literacy program run by the college. Then college president Robert A. Preston came across an ad for Virginia Slims in *Time* magazine that in his judgment and that of others was clearly promoting premarital sex. He discussed the matter with the students in his ethics class. "Some of them argued that it would do more good for us to keep the money and use it for the literacy project, or that it was such a small amount that it wouldn't matter to a big company like Phillip Morris." But most of the students thought the money should be returned, as

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did the trustees, and so it was. Said Phillip Morris: "We regret their decision because our grant would have helped improve literacy in Gaston County." Dr. Preston's letter returning the money made it clear "that this action is in no way connected with the fact that Phillip Morris is in the tobacco business." Draw a line between those who would approve returning the money as a protest against the promotion of tobacco and those who approve it as a protest against the promotion of premarital sex and you get one way of understanding alignments in what some call the culture wars.

■ There is manifestly a Christian revival in the culture, says David R. Carlin, even if it takes the form of reaction against decades of secular onslaught. But it is very much a Protestant revival/reaction. Catholics are not likely to really get with it unless they are led by their clergy, and Catholic clergy are way behind their Protestant counterparts on this score. Why should that be? Well, says Carlin, Catholic clergy tend to be older and badly overworked. Then too, in the aftermath of Vatican II many clergy took a liberal turn, and most are still very nervous about being perceived as anti-liberal, which means that they often end up on the secular side of the culture wars. But there is also another reason worth pondering: "The Catholic clergy are less 'American' than the conservative Protestant clergy, and therefore less disturbed by the de-Christianization of the United States. By this I do not mean that Catholic clergy are less patriotic than Protestants—not at all. Members of the Catholic clergy, however, have a strong sense of belonging to an international church, the United States being only one of many branch offices; if Christianity goes under in the United States, that's too bad, but it's not the end of the world. By contrast, conservative Protestant clergy—take, for instance, the Southern Baptists, the single largest conservative Protestant denomination—have a strong sense of belonging to a church whose home country is the United States; if Christianity goes under here, its true home, it is in grave trouble everywhere. They are therefore more sensitive to anti-Christian developments in American culture and more prompt in responding to them."

■ What I have written about the naked public square, says Louis R. Tarsitano, is "too optimistic." My problem, he says, is that I assume people are still capable of moral argument about the right ordering of our life together. Alas, says Tarsitano, writing in *Touchstone*, that was true of modernism, but our present era of postmodernism knows nothing about rational argument; contests are determined by what he calls "the plausible person." "The plausible person is the analog of the two-dimensional image on a television screen, a moving picture of a role that stirs the emotions of the viewers. He is a spectacle and an entertainment: not a communicator of ideas, but of sentiments." The supreme example of the plausible person is, of course, Bill Clinton, the "Sentimentalist-in-Chief." Tarsitano's point is that Christians must be prepared to communicate the gospel in this postmodernist mode. There are many parts to his argument, and I am not as convinced as he appears to be that the flight from public reason is a permanent fact of life, but along the way he has many suggestive things to say. And his analysis of last year's curious cultural juxtaposition of Princess Diana and Mother Teresa is, I think, one of the best reflections on the subject I've seen: "The power of the plausible person to appeal both to the post-modern and to the incompletely so did not go unnoticed. In the English parliamentary elections, Tony Blair and the Laborites adopted the language of plausible persons. Telegenic, well dressed, and well groomed, they said and emoted the right things; and they won, easily defeating a Tory Party that relied on modernism's facts and figures to make its case to the people. Mr. Blair further demonstrated his supreme plausibility at the funeral of Princess Diana. In a sea of plausible persons, here was a man who could read St. Paul's hymn to charity with style, and then downplay its potentially offensive Christian presuppositions by sentimentalizing to the pop eulogy of Elton John. He put St. Paul's words into their proper postmodern context, where one song is as good as another, as long as it makes the audience feel something good about itself. Diana's funeral was the model of postmodern events, as celebrities, the ultimate in plausible persons, mourned for one of their own. Sung during the procession, the words of the ancient Burial Office were reduced to part of the show. Then, speaking the words of the postmodern Alternative Service Book, the participating clergy demonstrated their bland, vaguely spiritual ability not to give offense, or to draw unseemly attention to such questions as the possible existence of an absolute truth in Jesus Christ. In contrast, the funeral of Mother Teresa the following week was anything but a postmodern 'concert with a corpse.' A simple chorus of novice nuns served as the choir, singing with a religious seriousness missing in the technically exquisite music that framed Elton John's performance at Diana's 'event.' The bishops and priests who conducted the service made little effort to appear plausible or to reassure the postmoderns that they were only kidding about the resurrection and the life in Christ. They delivered the same funeral that they would have given anyone else according to the Roman rite. While the cameras followed Diana's funeral in riveted silence, so as not to disrupt the music or speeches, during Mother Teresa's funeral, the networks repeatedly cut away, with apologies for the 'boring' canon of the Roman Mass. The speakers were often silenced, so that the commentators could

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raise questions about the morality of the deceased's Christian opposition to abortion. The same commentators also attempted to rehabilitate Mother Teresa in postmodern terms, stressing her ability to work with people of other faiths, as if this proved that she did not take her Christianity or Roman Catholicism too seriously. The person they praised was not the intensely faithful woman whose body lay in the box before them, but a plausible person who thought that all religions were good and more or less equally true."

■ Chaplain at Cambridge for some thirty years, Monsignor Alfred Gilbey recently died at age ninety-six. The obituary in the London *Times* said "he was the last Roman Catholic priest of his kind and had been for a considerable time." In latter years he lived at the Travellers' Club and, until a few months ago, walked each day to say 7:30 Mass in St. Wilfred's chapel of the Brompton Oratory. We had lunch in New York in 1995 on his first visit to this country, and he declared himself very pleased with America. "I will not wait another ninety-four years before coming again," he said. He was most elegant in manner, but the *Times* notes there was "a certain asceticism" about him. "He might counsel a dinner companion against ordering a certain dish and then choose it for himself, as a gentle exercise in self-mortification." He was altogether a remarkable and gentle man. *Requiescat in pace.*

■ I take nothing back from what has been said in these pages about the judicial usurpation of politics in the U.S. But then one looks northward and is grateful that here we still have a fighting chance. King's University College in Edmonton, Alberta, a Christian school, had dismissed an instructor for his public homosexual practices which, said the administration, violated the foundational beliefs of the college. Canada's Supreme Court has now issued a unanimous decision that the school violated the instructor's human rights. The court noted that the province of Alberta's human rights law did not include sexual orientation, declaring that it was now remedying the omission by "reading in" that provision, effective immediately. It is almost unimaginable that an American court would on this question so arrogantly ride roughshod over the political process and the free exercise rights of a religious institution. Almost. At present. Of course there is still a fighting chance in Canada, too. If anyone had the nerve for it.

■ A few months ago, the *Wall Street Journal* carried a story, "Striking Behavior: The Ezzos Sell Parents Some Tough Advice: Don't Spare the Rod." Gary Ezzo has written a slew of books that are a big thing in the evangelical Christian market and are now being picked up in some Catholic circles. Dr. Thomas Mezzetti and Jacintha Mezzetti have written a hard-hitting critique of the Ezzo approach, called "Neo-Evangelizing the Catholic Family with an Alien Gospel." Readers may write the Mezzettis (5117 White Flint Dr., Kensington, MD 20895) or get a copy of the essay on the website (http://members.aol.com/ncp2000/index.html). This is not my area of expertise, but it strikes me as an important debate about what it means to rear children in the fear and love of the Lord.

■ Somewhere along the way Independent Counsel Kenneth Starr said he sometimes sings hymns while jogging in the morning. Or maybe somebody caught him in the act. In any event, it has become a prime exhibit in the media prosecution of Mr. Starr as a very weird person. So weird, and dangerous, that he is even looking into books that "that woman" gave Mr. Clinton as presents, including what is apparently a semi-pornographic novel called *Vox*. Some of the chief elements in what the *New York Times* insists is not a culture war are blatantly on display in a column by Maureen Dowd: "I must admit that it is amusing to think of the prissy Independent Counsel, who attended Bible College and who still reads the Bible and sings hymns when he jogs, poring over the raunchy, heavy-breathing phone exchanges in *Vox*." That's a nice touch: He *still* reads the Bible. How weird can you get?

■ The news is the first draft of history, Ben Bradlee of the *Washington Post* is supposed to have said. More often, the news is what fills up the space on page three. For instance, a very busy cardinal in the Curia had agreed to give a lecture on "the Church" in connection with a Roman anniversary. Having not read anything on the subject for years, he sent his secretary to the library to get "some books on ecclesiology." The secretary brought back a wide selection, including one by a German theologian who is a famous dissident. The lecture was a cut-and-paste job, including an item from column A, another from column B, and so forth. Sure enough, the famous dissident was uncritically quoted, and this was reported by someone at *La Repubblica* who didn't have anything better to write about that day. Then it was picked up by the *Times* of London; and pretty soon Father Thomas Reese, S.J., author of a guidebook called *Inside the Vatican*, was joining others in public ponderings about Rome's new opening to the left. The story is not the first draft of history, just a minor gaffe of a type familiar to those who know about life inside the Vatican.

■ Almost nobody engaged in the city's public life could not know Bella Abzug, she of the loud mouth and broad-brimmed hats. She was a determinedly vulgar woman with a nonstop ego, a caricature that might have been invented by the opponents of a certain style of feminism. But others claim to have been inspired by her. Hillary Clinton, for instance,

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gathered with about a hundred women in Washington, all wearing big hats, to honor Bella's memory. Among the speakers was Representative Maxine Waters, who boldly declared, "We owe it to Bella to really kind of recommit ourselves." Really. Kind of.

■ I have to say it from time to time: While this space is a "continuing survey" it is by no means an exhaustive survey. Many things of enormous moment go unmentioned here, which does not suggest that they are not of enormous moment. One such item was the refusal of the Republican National Committee to adopt a policy of declining to support any candidate who does not oppose partial-birth abortion. Does the fact that it went unmentioned here mean that I think the decision is not objectionable? Not at all. It is morally contemptible. I say that even though I have great respect for some of those who opposed a "litmus test," and understand their political reasoning. Partial-birth abortion is infanticide. While many refuse to use that term, nobody even attempts to offer an argument that it does not typically involve the killing of a healthy and fully formed baby who is within three inches of being definitively born. It is objected that this reasoning would lead to a "litmus test" against any support for abortion, which is the killing of an innocent child. There is much to be said for that, but a case can be made (not an entirely convincing case) that the widespread confusion about abortion in general is a politically pertinent fact to be taken into prudential account. No sane person, however, is confused about what is done in partial-birth abortion. The RNC decision has done severe damage to the claim that Republicans are "the pro-life party." At the same time, it may continue to be a necessary instrument in working toward the goal of "every unborn child protected in law and welcomed in life." The cynics in the RNC count on the indispensability of the party to the pro-life movement. On that score they may be in for some rude surprises from the likes of James Dobson of Focus on the Family and Gary Bauer of the Family Research Council. In any event, the RNC decision is yet another reminder that, whether with this party or any party, the psalmist had it right when he counseled, "Put not your trust in princes."

■ Said the Rev. Dr. Albert M. Pennybacker, "It's classic Washington collaborative convergence." It's also the kind of thing that gives collaboration a bad name. He was speaking for the National Council of Churches, which was employed by a lobbying firm called the Fratelli Group, which was, in turn, hired by a business lobby called USA*Engage, which was, in further turn, created by several hundred corporations—and all this to fight human rights and religious groups that supported the Freedom from Religious Persecution Act. The act, sponsored by Frank Wolf and Alan Specter, is an historic measure that aims to entrench religious persecution among the concerns to be taken into account in U.S. foreign policy, and it provides moderate sanctions against egregious offenders such as China and Sudan. It is supported, I believe rightly, by a wide range of religious groups, from the Union of American Hebrew Congregations to the U.S. Catholic Conference to the National Association of Evangelicals, and by major human rights organizations. A USA*Engage memo that has been made public says, "Business would not be the best group to be out front on this issue. . . . Religious leaders and religious organizations should take the lead for best results." With handsome funding available, the National Council of Churches volunteered to be recruited and led an international group of religious leaders to lobby on Capitol Hill against the Religious Persecution Act and in favor of the proposition that the U.S. should continue to do business as usual with regimes that persecute Christians and other believers. The phrase is worth remembering: "collaborative convergence."

■ Here's a new twist. Some politicians met with angry constituents and tried to appease them. The Rev. Barry Lynn of Americans United for Separation of Church and State is outraged. The politicians were Speaker Newt Gingrich and Senator Trent Lott, and the constituents were Christian conservatives such as James Dobson and Gary Bauer. What this means, says Lynn, is that "Leaders in Congress made a deal with the devil and now they're having to give the devil his due." Religious conservatives have been called many things, but it is worth noting for the record the Rev. Lynn's ratcheting of the rhetoric.

■ Surreal is the word for it. In late April, President Clinton met with members of the National Association of Evangelicals and asked them to withdraw their support for the Freedom from Religious Persecution Act, which would provide mild sanctions against countries engaged in egregious persecution of Christians and other believers. The act would, said the President, put "enormous pressure" on his Administration to "fudge" the facts about persecution by nations such as China with which he wants to do business. The man elected to see that laws are faithfully executed tells religious leaders they should not put him in a position of not enforcing the law. Was it only a year ago that Mr. Clinton was publicly musing about what might be his legacy?

■ The opening passage of Roger Ebert's review of *City of Angels* is worth a ponder: "Angels are big right now in pop entertainment, no doubt because everybody gets one. New Age spirituality is me-oriented, and gives its followers top billing in the

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soap operas of their own lives. People like to believe they've had lots of previous incarnations, get messages in their dreams, and are psychic. But according to the theory of karma, if you were Joan of Arc in a past life and are currently reduced to studying Marianne Williamson paperbacks, you must have made a wrong turn. When there's a trend toward humility and selflessness, then we'll know we're getting somewhere on the spiritual front. That time is not yet. *City of Angels* hits the crest of the boom in angel movies—and like most of them it's a love story. Hollywood is interested in priests and nuns only when they break the vow of chastity, and with angels only when they get the hots for humans. Can you imagine a movie in which a human renounces sexuality and hopes to become an angel?"

■ A thirty-three-page attack on "The Gift of Salvation" by John Robbins, Ph.D., in the April issue of *Trinity Review* (Unicoi, Tennessee) begins with this: "To put it bluntly, Colson and Neuhaus are the front men (the Romanists, as well as the Communists, are adept at using fronts) in an imperialist papal plan to regain control, first of the churches, and ultimately of the world." So little time and so much to do.

■ "Moral equivalency" was a phrase much used during the Cold War to describe a mindset determined to fudge the difference between the evil empire and other empires that are far from perfect. Thus: "Yes, it is true the Soviets put political dissidents into lunatic asylums and persecute Christians and other believers, but there is still racism in America and look what we're doing to the ozone layer." Moral equivalence is the right term for a recent speech by Secretary of State Madeleine Albright opposing the Wolf-Specter bill, which would provide mild penalties for countries engaged in religious persecution. "Even the most patriotic among us," she said, "must admit that neither morality nor religious freedom nor respect for human rights were invented here—nor are they perfectly practiced here. . . . If we are to be effective in defending the values we cherish, we must also take into account the perspectives and values of others." The "perspectives and values" of the Chinese regime mandate the arrest, torture, and forced labor of Christians who belong to churches that refuse to submit to government control, the Saudis permit no open Christian worship at all, the Sudan enslaves Christian children, and in Pakistan Muslims who convert to Christianity are punished by death. That countries have such odious "perspectives and values" must indeed be taken into account, but Ms. Albright's point seems to be that they should be *sympathetically* taken into account, as in don't criticize them. The idea of human rights, with religious freedom as the first among them, was not "invented" by the U.S., nor can it be the sole concern of foreign policy. But from the Declaration's "We hold these truths to be self-evident" through most of American history, this country has played a singular role in pressing for an elementary recognition of human dignity. It is a great sadness that the current Administration has, in relation to China and other gross violators of human rights, regressed to the reprehensible doctrine that what is good for U.S. business is good for the world. Had the Clinton-Albright doctrine of moral equivalence been operative in the 1980s, we would still be resigned to "peaceful coexistence" with the evil empire of the Soviet Union. We do well, I think, to support the boycott of all things marked "Made in China," including U.S. foreign policy.

■ Reason to stand up and cheer is the appearance of "A Call to Civil Society: Why Democracy Needs Moral Truths." Issued in New York at the end of May, this important statement comes from the Council on Civil Society, a project involving nationally prominent thinkers and jointly backed by the Institute for American Values and the University of Chicago Divinity School. Among the signers are Don S. Browning, David Blankenhorn, Senator Dan Coats, John DiIulio, Jean Bethke Elshtain, Francis Fukuyama, William A. Galston, Robert P. George, Mary Ann Glendon, Senator Joseph Lieberman, Glenn C. Loury, Cornel West, James Q. Wilson, and Daniel Yankelovich. "A Call to Civil Society" is a thirty-page, very handsomely printed manifesto that addresses in a comprehensive way the rejuvenation of the chief institutions of democratic society, with very specific reference to religion and communities of faith. We will no doubt be coming back to this important initiative in these pages. For a copy of the statement, write the Institute for American Values (1841 Broadway, Suite 211, New York, NY 10023).

■ Anyone who feels guilty about sleeping soundly might pick up Lee M. Silver's *Remaking Eden: Cloning and Beyond in a Brave New World* (Avon). Headless tadpoles have been done, next is headless human beings, bodies created and grown for purposes of organ transplants. This is but a small part of the world that Silver envisions in the future, one which includes the possibility that the wealthy with access to all the refinements of genetic engineering may one day breed themselves into being a different species from the poor. "Many paths can be followed to reach the goal of having a child," he writes, and the validity of paths chosen should be judged "not by their intrinsic nature but by the love that a parent gives to the child after she or he is born." This proposal that love can displace nature is evident also in Ted Peters' *For the Love of Children: Genetic Technology and the Future of the Family*, which is incisively criticized in Nancy Pearcey's review in the February issue. Reviewing the Silver book in the *New York Times*, Paul Raeburn

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concludes, "Whether or not we can produce humans without heads, Silver seems to be saying, we ought to be sure they have hearts." The hearts of human beings without heads, one might observe, will be good only for heart transplants.

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**Sources:** On Edward Farley on Protestant worhip, *Christian Century*, March 18-25, 1998.

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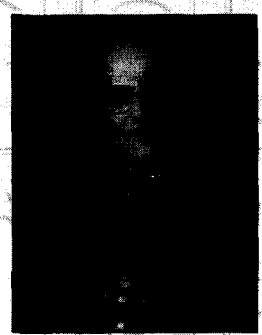

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